



# **THE STATE OF PRESIDENTIAL TERM LIMITS IN AFRICA (1990-2022)**

*Prepared by the:*



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## **Abbreviations**

African Democracy Charter	African Charter on Democracy, Elections and Governance
African Commission	African Commission on Human and Peoples' Rights
African Court	African Court on Human and Peoples' Rights
AU	African Union
ECOWAS	Economic Community of West African States
RECs	Regional Economic Communities

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## Executive summary

### Introductory background

The introduction of presidential term limits in most post-1990 African constitutions was seen not only as a sign of commitment to entrenching a culture of constitutionalism, democracy and respect for the rule of law, but also as an attempt to avoid a recurrence of the military and one-party dictatorships of yesteryears. Unlike in the past, when presidents were changed almost always through assassinations or military coups, presidential term limits afford an opportunity for regular peaceful alternation of power. Accordingly, this study examines African countries' record of compliance since 1990 with the presidential term-limit provisions of their constitutions.

The results, as the report shows, are mixed. This is due to the ease with which African presidents have devised ways to prolong their stay in office, whether it be through creative interpretation of the language of term-limit provisions or through amendments to these provisions. Non-compliance with presidential term-limit provisions – or the outright evasion of them – threatens to compromise the gains that have been achieved thanks to these term limits. The critical issue for the study was thus to see how one could avert, or at least mitigate, the growing risk of entrenchment of autocracy under the guise of democracy, and in this way enhance the prospects for sustaining Africa's faltering strides towards constitutionalism and democracy, while, conversely, stemming the tide of democratic regression.

The study set out to answer six main questions:

1. What is the current status of presidential term-limit provisions in African constitutions?
2. What has the trend been in terms of compliance with or circumvention of these term limits? Why have certain countries not complied with them, and how has this come about?
3. What are the key arguments in favour of and against presidential term limits? Are they credible?
4. Is there a nexus between presidential term-limit evasion, constitutionalism, democracy and respect for the rule of law?
5. What has been the role of civil society in promoting respect for and protecting the integrity of presidential term limits?
6. How have the African Union (AU), Regional Economic Communities (RECs), and the wider international community helped or failed in promoting respect for and protection of the integrity of presidential term limits?

The study concludes with recommending various critical measures that stakeholders such as the broader public, civil society, the AU, RECs, and the international community should take to enhance respect for presidential term limits.

### *The status of presidential term-limit provisions in African constitutions*

The study first examines the current status of presidential term-limit provisions in current African constitutions as at October 2022. It found that six countries have no presidential term-limit provisions, and that, in five other countries, they were ineffective because three of the countries are monarchies and

the other two have parliamentary systems. However, the major problem in Africa today has less to do with the incorporation of presidential term-limit provisions than with their enforcement.

### ***The trend in compliance with presidential term limits***

While in many cases there has been compliance with the presidential term-limit provisions, in other instances amendments to these provisions, either through referendum, judicial interpretation, or simply delaying elections, have subverted their intended purpose. Four main causes of presidential term-limit evasion were identified:

- the intoxicating effect that excessive concentration of powers has on presidents;
- weak foundations for multipartyism and limited checks and balances, alongside lack of internal party democracy;
- sloppy craftsmanship of constitutional presidential term-limit provisions; and
- lack of strong external support from the international community.

### ***Arguments for and against presidential term limits***

Proponents of term limits contend that their main advantages include the following:

- Term limits enhance the prospects for democracy by ending the ‘president-for-life’ syndrome that resulted in incompetent and repressive leaders and dynasties in Africa.
- Term limits have the potential to protect democracy and democratic institutions by reducing the advantages that incumbents enjoy during elections or due to prolonged personal rule.
- Term limits can reduce barriers to entry into politics, facilitate the growth of a culture of political competition and tolerance for opponents, and thus enhance the prospects for political development and consolidation.
- Term limits provide an effective and legitimate means of dealing with one of the most intractable problems to have inhibited Africa’s development: that is, they enable bad leaders to be replaced before they can cause irreparable damage.
- Term limits provide a strong indication of a government’s commitment to promoting and consolidating democracy, good governance and respect for the rule of law by guaranteeing regular alternation in power.

Opponents of presidential term limits raise a number of counterarguments, all of which are indefensible and self-serving in the African context:

- Term limits undermine democracy because they deprive a country of the benefit of experienced people and deny voters the opportunity to re-elect their preferred leaders.
- Frequent changes of leadership can have a negative impact on the quality and continuity of a country’s policies and create political uncertainty.
- Term limits unduly limit the human and political rights of incumbents and voters.

- Term limits are both a Western imposition and a display of double standards, given that the constitutions of many countries in the West do not themselves contain such limitations.

### ***The nexus between presidential term-limit evasion, constitutionalism, democracy and respect for the rule of law***

There is overwhelming evidence – from both the literature as well as survey indicators, such as those on economic performance, the state of civil and political rights, the state of freedom of the press, and the state of respect for the rule of law – that points to a causal link between prolonged stays in power, state fragility, weak institutions, bad governance, corruption, and feeble democratic consolidation. A number of findings support this conclusion:

- The ten longest-serving presidents on the continent, who have been in power for on average 17.5 years and counting, have removed presidential term limits from their constitutions. There is sufficient evidence to show that the removal of presidential term limits has virtually paved the way for pre-1990 life presidencies of the past to re-emerge.
- The removal or manipulation of presidential term limits facilitates the growth of political dynasties, which in turn are promoted by self-serving clientelist and patronage networks determined to protect their interests.
- The rule of law is undermined when presidents ignore presidential term limits or manipulate them.
- In many African countries, the removal – actual or attempted – of presidential term limits has led to violence, repression and the violation of the human rights of citizens protesting against the changes.
- The past decade has been marked by signs of a global democratic recession, with increased evidence of democratic deconsolidation and autocratization. The situation in Africa, however, is far worse. Governance indicators show that most of the African countries that have removed, distorted or ignored presidential term have not performed well in terms of democratic progress, respect for the rule of law and prospects for constitutionalism when compared to countries that have retained and respected these provisions. Moreover, countries that have maintained term limits and witnessed alternation of power on average perform better on issues of political stability and the fight against corruption.

### ***The role of civil society in promoting respect for presidential term-limits***

One of the positive developments of the post-1990 era is that many countries in Africa have seen the growth of a relatively vibrant, vigilant and enlightened civil society. In the four countries where serious attempts by incumbents to amend presidential term limits were repelled, this was due largely to resistance and mobilisation by civil society. The study found, however, that civil society has the potential to do even more.

### ***The role of the AU, RECs and international community in promoting respect for presidential term limits***

Although presidential term limits are ostensibly a matter of domestic constitutional policy and concern, it was noted that they do have wider implications for international peace and security. This explains why the

AU and certain of its RECs, such as the Economic Community of West African States (ECOWAS), have developed an elaborate normative framework of binding and non-binding instruments to deal with arbitrary amendment of constitutions, including presidential term-limit provisions, in circumstances that amount to unconstitutional changes of government.

The AU has been unsuccessful, though, due to weak and inconsistent enforcement of its framework – a situation compounded by this framework’s vague scope of application and the lack of a strategy and mechanism for implementing it. Within the AU system, the African Commission on Human and Peoples’ Rights (the African Commission) and the African Court on Human and Peoples’ Rights (the African Court) provide opportunities for dealing with abuses of constitutional amendment processes.

As for the RECs, some have adopted their own normative frameworks to promote constitutionalism, democracy and respect for the rule of law. For example, in 2001 ECOWAS adopted the Protocol on Democracy and Good Governance. In regard to presidential term limits, ECOWAS has attempted on two occasions – in 2015 and again in 2021 – to impose a two-term limit for all presidents in the region, but the move was opposed and eventually blocked by certain of the member states. Debates on amending the Protocol to guarantee a two term limit on presidents continue.

While the AU and its RECs have been relatively timid in their reaction to violations of term limits on the continent, the response by the international community has scarcely been any stronger or less equivocal. The global trend in which Western governments, international institutions and donor agencies supported democracy-building initiatives on the continent has waned since the 1990s. First, Western post-9-11 security imperatives led to the prioritization of security over everything else; in some cases leading to increased support for certain repressive regimes in Africa. Secondly, the emergence of China and other non-traditional trading partners, such as India, Brazil and Russia, as alternative sources of foreign direct investment threaten to further undermine Africa’s fragile transition to democracy.

## **Conclusions and recommendations**

### ***Conclusions***

Generally, arguments in favour of incorporating presidential term limits in African constitutions have won the day. The question is no longer whether or not they are needed but how best to promote their incorporation in all present-day constitutions and ensure strict respect for them. Six main conclusions can be drawn from developments since 1990.

1. Presidential term limit provisions have been removed, manipulated or ignored in the most autocratic states on the continent.
2. Since 1990, coups have been replaced by skilful manipulation of constitutions and other formal democracy-enhancing institutions, such as courts and election management bodies: this is now the most important means of coming to power and staying there.
3. With one exception, Abdoulaye Wade of Senegal in 2012, all presidents who exploited legal ambiguities or constitutional loopholes to ‘legalise’ their third-term eligibility through the courts, or simply removed the presidential term limits, went on to win re-election. As such, the argument



that elections are the best way of limiting presidential terms is not borne out by the evidence to have emerged in Africa since 1990.

4. An examination of when term-limit provisions tend to be tampered with shows that this usually occurs just before incumbents are due to retire.
5. Due to the increasing indifference of not only the AU and RECs but also an increasingly fragmented international community in a multipolar world, the cost of circumventing or otherwise manipulating constitutions is very low.
6. It is now clear that presidential term-limit evasion is a manifestation of a historical continuity – the president-for-life syndrome of the pre-1990 era.

The question is: How could presidential term-limit provisions be made more effective, and the cost of circumventing them be made as high as that of staging a coup?

## ***Recommendations***

### ***At the national level***

All African governments should:

- constitutionally entrench a strict presidential two-term limit in their constitutions, or where this is already present, strengthen it;
- ensure that any proposals to amend this important provision undergo an inclusive, transparent and participatory process that involves thorough public scrutiny and an elaborate process of consultation of all key stakeholders;
- constitutionally entrench a principle that no amendments to presidential term limits should benefit the incumbent directly or indirectly;
- establish an independent, permanent constitutional review commission to review regularly the operation of the constitution and all democracy-enhancing institutions and make recommendations for change; and
- constitutionally entrench key democracy-enhancing institutions such as election management bodies, constituency demarcation bodies, public service commissions and courts.

Civil society organisations should:

- establish an inclusive constitution-monitoring committee that regularly reviews compliance with constitutional obligations;
- promote constitutional literacy on the basis that a vibrant, alert and enlightened civil society is crucial to defending the constitution and constitutionalism; and
- seek the formation of a coalition of democrats from all political forces, including ruling parties, to promote a tradition of regular alternation of power.

### ***At regional level***

The AU and RECs should be more proactive and take firm action in response to any threats of unconstitutional changes of government through unconstitutional retention of power. In particular, the AU should:

- raise the cost of term-limit evasion by adopting a firm, consistent, zero-tolerance stance towards all forms of unconstitutional change of government, including those that involve removing presidential term limits for the benefit of incumbent presidents;
- develop benchmarks and other guidelines for the implementation of the commitments and principles of its constitutionalism-promoting normative framework, particularly the African Charter;
- establish an AU Democracy Monitoring and Enforcement Commission to monitor and evaluate compliance with their obligations under the different normative instruments. This function could be played by an expanded African Governance Architecture;
- impose and consistently enforce a presidential two-term limit among member states;
- collaborate with the African Court and African Commission in the implementation of normative instruments, particularly the African Democracy Charter;
- increase the attraction of post-presidential tenure by establishing an advisory body of retired presidents who respected the prescribed term limits; and
- amend the Protocol on the Statute of the African Court of Justice and Human Rights to remove the blanket immunity from prosecution for crimes against humanity and genocide given to ‘serving heads of state’ and ‘senior government officials’ while they are in office.

To advance entrenchment and enforcement of presidential term limits, RECs should:

- emulate ECOWAS’s efforts to make two-term presidential term limits mandatory in their regions; and
- in accordance with the principle of subsidiarity and complementarity, collaborate proactively with the AU and other RECs to monitor and evaluate implementation of commitments and principles in AU normative instruments, including in particular any benchmarks and guidelines which the AU may develop.

### ***At the international level***

There are a number of measures that the international diplomatic and donor community should take to enhance the adoption and enforcement of presidential term limits in recognition of the risks that prolonged tenures pose to constitutionalism, democracy and political stability on the continent. These should include:

- using peer pressure as well as diplomatic avenues to discourage countries from evading presidential term limits and encouraging those who have removed them to reinstate them;

- increasing the cost of violating constitutional term limits by condemning such behaviour immediately and imposing targeted economic sanctions against all persons directly or indirectly involved in facilitating or participating in such violations;
- based on the example of the Mo Ibrahim Foundation, create a body that formally recognises and honours (including the possibility of awarding prizes), incumbents who retire in compliance with the constitutionally prescribed two-term limit; and
- taking every opportunity to initiate prosecution for crimes against humanity and genocide against any president and other senior officials who committed such crimes in the process of prolonging their stay in power or who used such term-prolongation to escape liability for these crimes.

### ***Final conclusion***

The measures proposed above are no guarantee that presidential term limits would not be tampered with, but they could considerably reduce the risk of this happening. They offer the best prospects of curbing the risk of personalised power and the propensity for perpetual rule – and thereby supporting the continent’s progress in entrenching constitutionalism, democracy and respect for the rule of law.

## 1. Introductory background

Post-1990 constitutional reforms across Africa saw the adoption of new or substantially revised constitutions replete with provisions designed to promote good governance, constitutionalism and respect for the rule of law. One of the most significant of these innovations was the introduction of presidential term limits.<sup>1</sup> The primary objective thereof was to end the culture of perpetual incumbency and ‘presidents for life’ which had facilitated the emergence of the continent’s numerous civilian and military dictatorships. Prior to the 1990 reforms, peaceful presidential alternations were rare in Africa. Presidents who managed to survive assassinations and military coups entrenched themselves in office by authoritarian and often harshly repressive means or by devising procedural defenses against being voted out of office. Unsurprisingly, of the more than 180 presidents who held power in Africa before 1990, less than 20 per cent of them relinquished power or retired voluntarily.

Presidential term limits have a historical lineage that dates to the middle of the 19<sup>th</sup> century and have long been regarded as one of the defining features of modern democracy. Their introduction in most post-1990 African constitutions was thus seen as a sign of commitment to entrenching and fostering a culture of constitutionalism, democracy and respect for the rule of law. Although the nature of presidential tenure restrictions varied from one country to another, their overriding objective was to ensure that no one person, regardless of his or her personal merits, could monopolize power.

As this study shows, however, the record of compliance with presidential term limits since 1990 has been mixed. The ease with which some African presidents have prolonged their stay in office by interpreting the wording of term-limit provisions in creative ways, amending these provisions, or simply ignoring them threatens to compromise the small gains that have been made as a result of these term-limit restrictions.

The critical issue for the study is thus to see how one could avert, or at least mitigate, the growing risk of entrenchment of autocracy under the guise of democracy, and in this way enhance the prospects for sustaining Africa’s faltering strides towards constitutionalism and democracy while, conversely, stemming the tide of democratic regression.

This key question raises several subsidiary questions, ones which this study sets out to investigate, with its focus falling on the evolution of presidential term limit provisions since 1990. These subsidiary questions are:

1. What is the current status of presidential term-limit provisions in African constitutions?
2. What has the trend been in terms of compliance with or circumvention of these term limits? Why have certain countries not complied with them, and how has this come about?
3. What are the key arguments in favour of and against presidential term limits? Are they credible?
4. Is there a nexus between presidential term-limit evasion, constitutionalism, democracy and respect for the rule of law?

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<sup>1</sup> See Kristin McKie, ‘Presidential term limit contravention: Abolish, extend, fail, or respect’, (2019) 52(10) *Comparative Political Studies* 1500-1534, who in note 2 indicates that Egypt, Ghana, Nigeria, Rwanda, Somalia, the Republic of Congo, and Tunisia all briefly adopted term limits between independence and 1990 before these were repealed by military or one-party rulers.

5. What has been the role of civil society in promoting respect for and protecting the integrity of presidential term limits?
6. How have the African Union (AU), the Regional Economic Communities (RECs), and the wider international community helped or failed in promoting respect for and protection of the integrity of presidential term limits?

The study proceeds to address each question in turn, beginning with an examination of the current formulation and status of term-limit provisions in African constitutions. How many constitutions still have these term limits and what form do they take? The next section looks at trends in compliance with or circumvention of presidential term limits from 1990 to the present. In other words, what is the record of compliance and non-compliance?

The following section (section 4) considers how term limits have been evaded and why, and delves into some of the theoretical and practical arguments for and against presidential term-limit provisions. Section 5 then examines the possible impact that presidential-term evasion has on constitutionalism, democracy and respect for the rule of law, after which sections 5 and 6 consider the role that civil society, as well as the AU, RECs and the international community, could play in promoting adherence to such limits. The study concludes with recommendations as to how stakeholders could address the risks posed by the removal or subversion of presidential term limits.

## **2. The current status of presidential term limits in African constitutions**

As noted, in the 1990s many African constitutions introduced presidential term limits in their new or revised constitutions, but at the time of this study there had been many changes, whether through the reformulation or removal of the restrictions contained in these provisions. Annex 1 presents the current constitutional formulation of presidential term limits provisions in African constitutions; in turn, Table 1 summarises the number of terms allowed in each constitution and the duration of each term.

Some caveats need to be noted in regard to these tables:

- Presidential term-limit provisions are common in presidential and semi-presidential systems, which are the main type of political regime found in Africa, but some also exist in parliamentary systems, where the president only serves as head of state and not head of government.<sup>2</sup> The study focuses on directly or indirectly elected presidents who act as heads of state and government. As such, this excludes Africa's three monarchies (Eswatini, Lesotho and Morocco), as well as parliamentary systems, such as Ethiopia and Mauritius, where presidents do not exercise executive authority; the study does include the parliamentary systems of Botswana and South Africa, where the presidents are both head of state and head of government.
- The study pays only limited attention to countries, such as Libya, Sahrawi Arab Democratic Republic, Sudan, and South Sudan, which are in political turmoil.<sup>3</sup>

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<sup>2</sup> For an example of the latter, see article 70(4) of the Constitution of Ethiopia which imposes a two-term limit on the ceremonial president.

<sup>3</sup> For the reasons set out in the two caveats, the study excludes detailed analysis of the situation in the following 10 African countries: Morocco, Lesotho, Eswatini, Ethiopia, Libya, Sahrawi Arab Democratic Republic, Somalia, Sudan and South Sudan. However, for purposes of completeness, they are included in the tables, with the exception of Sahrawi Arab Democratic Republic, which has never had any document that could be referred to in any seriousness as a constitution.

**Table 1. Number and Duration of Presidential Terms in Current African Constitutions**

Country	Constitutional term limit provision	Number of years per term	Maximum number of terms allowed	Whether amendable or unamendable
Algeria	Art. 92	5	2 (consecutive or discontinuous)	unamendable (Art. 234(9))
Angola	Art. 113	5	2 (consecutive or discontinuous)	amendable
Benin	Arts. 42 and 44	5 (+ age limit: 70 years old)	2 (consecutive or discontinuous)	amendable
Botswana	Sect. 34	5	2 (consecutive or discontinuous, a maximum of 10 years)	amendable*
Burkina Faso	Art. 37 / 38	5 (+ age limit: 75 years old)	2 (consecutive or discontinuous)	unamendable (Art. 165)
Burundi	Art. 97	7	2 (consecutive)	amendable
Cabo Verde	Arts. 126 and 134	5	2 (consecutive)	amendable
Cameroon	Art. 6	7	No limit	amendable
Central African Republic (CAR)	Art. 35	5	2 (consecutive)	unamendable Art. 153)
Chad	Art. 66	6	2 (consecutive or discontinuous)	amendable
Comoros	Art. 52	5	2 (consecutive)	amendable
Congo (Republic of Congo)	Art. 65	5	2 (consecutive or discontinuous)	amendable
Congo (Democratic Republic - DRC)	Art. 70	5	2 (consecutive or discontinuous)	unamendable (Art. 220)
Cote d'Ivoire	Art. 55	5	2 (consecutive or discontinuous)	amendable
Djibouti	Arts. 24 and. 23	5 (+ age limit: 75 years old)	No limit	amendable
Egypt	Art. 140	6	2 (consecutive)	Not very clear.
Equatorial Guinea	Art. 36	7	2 (consecutive)	amendable
Eritrea	Art. 41	5	2 (consecutive or discontinuous)	amendable.
Eswatini	Monarchy (no term limit)	Monarchy (no term limit)	Monarchy (no term limit)	Monarchy (no term limit)
Ethiopia	Parliamentary system of government.	Parliamentary system of government.	Parliamentary system of government.	Parliamentary system of government.
Gabon	Art. 9	7	No term limit	amendable
The Gambia	Art. 63	5	No term limit	amendable*
Ghana	Art. 66	4	2 (consecutive or discontinuous)	amendable*
Guinea-Bissau	Art. 66	5	2 (consecutive)	amendable
Guinea-Conakry	Art. 40	6	2 (consecutive or discontinuous)	unamendable (Art. 153)
Kenya	Arts. 136 and 142	5	2 (consecutive or discontinuous)	amendable*
Lesotho	Parliamentary system of government.	Parliamentary system of government.	Parliamentary system of government.	Parliamentary system of government.
Liberia	Art. 50	6	2 (consecutive or discontinuous)	amendable*
Libya	Transitional Constitutional Charter	Transitional Constitutional Charter	Transitional Constitutional Charter	Transitional Constitutional Charter

<b>Madagascar</b>	Art. 45	5	2 (consecutive or discontinuous)	unamendable (Art. 163)
<b>Malawi</b>	Art. 83	5	2 (consecutive)	amendable
<b>Mali</b>	Art. 30	5	2 (consecutive or discontinuous)	amendable
<b>Mauritania</b>	Arts. 26 and 28	5 (+ age limit: at most 75 years old)	2 (consecutive or discontinuous)	unamendable (Art. 99)
<b>Mauritius</b>	Parliamentary system of government.	Parliamentary system of government.	Parliamentary system of government.	Parliamentary system of government.
<b>Morocco</b>	Monarchy (no term limit)	Monarchy (no term limit)	Monarchy (no term limit)	Monarchy (no term limit)
<b>Mozambique</b>	Art. 146	5	2 (consecutive)	amendable
<b>Namibia</b>	Art. 29	5	2 (consecutive or discontinuous)	amendable
<b>Niger</b>	Art. 47	5	2 (consecutive or discontinuous)	unamendable (Art. 175)
<b>Nigeria</b>	Sects. 135 and 137	4	2 (consecutive or discontinuous)	amendable*
<b>Rwanda</b>	Art. 101	5	2 (consecutive or discontinuous)	amendable *
<b>Sao Tome and Principe</b>	Art. 79	5	2 (consecutive)	amendable
<b>Senegal</b>	Arts. 27 and 28	5 (+ age limit: at most 75 years old)	2 (consecutive)	unamendable (Art. 103)
<b>Seychelles</b>	Art. 52	5	2 (consecutive or discontinuous)	amendable
<b>Sierra Leone</b>	Art. 46	5	2 (consecutive or discontinuous)	amendable*
<b>Somalia</b>	Art. 91	4	No precision of term limit	amendable
<b>South Africa</b>	Art. 88	5	2 (consecutive or discontinuous)	amendable*
<b>South Sudan</b>	Art. 100	5	No precision of term limit	amendable
<b>Sudan</b>	Now in transition post Omar al Bashir	Now in transition post Omar al Bashir	Now in transition post Omar al Bashir	Now in transition post Omar al Bashir
<b>Tanzania</b>	Arts. 40 and 42	5	2 (consecutive or discontinuous)	amendable
<b>Togo</b>	Art. 59	5	2 (consecutive or discontinuous)	amendable
<b>Tunisia</b>	Arts. 89 and 90	5	2 (consecutive or discontinuous)	amendable
<b>Uganda</b>	Art. 105	5	2 (consecutive or discontinuous)	amendable
<b>Zambia</b>	Art. 106	5	2 (consecutive or discontinuous)	amendable
<b>Zimbabwe</b>	Sects. 91 and 95	5	2 (consecutive or discontinuous)	amendable*

\* These are countries where the constitutions provide fairly elaborate and onerous procedures for amending its provisions, including the presidential term limits provisions.

With these caveats in mind, several observations can be made about the nature of provisions regulating presidential term limits in present-day African constitutions:

- Six countries – Cameroon, Djibouti, Eritrea, Gabon, The Gambia, Somalia, and South Sudan – have no presidential term-limit provisions. In Cameroon and Gabon, such provisions were removed in 2008 and 2003, respectively. It is important to note that some countries that removed term limits at some point have reinstated them, e.g., Togo and Uganda. Ethiopia and Mauritius have presidential term limits. Nevertheless, given that they are parliamentary systems executive power resides with the prime minister, who may be removed from office at any time by a vote of no-confidence in parliament. Although some parliamentary countries in other parts of the world have included term limits on the prime minister, this is not the case in Africa’s parliamentary systems, which has led to situations where prime ministers in Ethiopia and Mauritius have served more than two terms.
- Only the Republic of Congo has a three-term presidential limit, which was introduced after its two-term limit was removed opportunistically in 2015.
- The remainder of African countries have a two-term presidential limit. In some cases, as will be seen, it is not clear if the two-term limit is an absolute bar.
- There is considerable variation in the duration of presidential terms, which range from four,<sup>4</sup> five,<sup>5</sup> and six<sup>6</sup> to seven<sup>7</sup> years (See Table 1). However, the overwhelming majority have adopted a five-year presidential term.

### 3. The trend in compliance with presidential term limits

The major problem in Africa today has less to do with the incorporation of presidential term-limit provisions than with their enforcement. While in many cases there has been compliance with the presidential term-limit provisions, in other instances, amendments to these provisions have subverted their intended purpose

Table 2 provides an indication of the number of African presidents who have so far respected their constitutional term limits.

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<sup>4</sup> This applies to only three countries: Ghana, Nigeria and Somalia.

<sup>5</sup> This is the case in an overwhelming majority of countries: Algeria, Angola, Benin, Botswana, Burkina Faso, Cabo Verde, Central African Republic, Comoros, Republic of Congo, the Gambia, DR Congo, Côte d’Ivoire, Djibouti, Guinea-Bissau, Kenya, Madagascar, Malawi, Mali, Mauritius, Mauritania, Mozambique, Namibia, Niger, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, South Africa, South Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

<sup>6</sup> The four countries that provide for this are Chad, Egypt, Guinea and Liberia.

<sup>7</sup> The four countries that provide for this are Burundi, Cameroon, Equatorial Guinea and Gabon – all dictatorships.



**Table 2. Presidents who have respected the presidential term limits provisions since 1990**

Country	President	Year of the end of the presidential term	Observation
<b>Benin</b>	Mathieu Kérékou	2006 (2 terms)	Retired after serving 2 terms
	Thomas Boni Yayi	2016 (2 terms)	Retired after serving 2 terms
<b>Botswana</b>	Festus Mogae	2008 (2 terms)	Resigned and retired in 2008 one year before end of his second term, after serving 10 maximum years allowed by the constitution
	Seretse Khama Ian Khama	2018 (2 terms)	Resigned and retired in 2018, one year before end of his second term, after serving 10 maximum years allowed by the constitution
<b>Cabo Verde</b>	Antonio Mascarenhas Monteiro	2001 (2 terms)	Retired after serving 2 terms
	Pedro Pires	2011 (2 terms)	Retired after serving 2 terms
	Jorge Carlos Fonseca	2021 (2 terms)	Retired after serving 2 terms
<b>Comoros</b>	Azali Assoumani	2006 (1 term)	Retired after the one term limit imposed by the constitution
	Ahmed Abdallah Mohamed Sambi	2011 (1 term)	Retired after the one term limit imposed by the constitution
	Ikililou Dhoinine	2016 (1 term)	Retired after the one term limit imposed by the constitution
<b>Ghana</b>	Jerry Rawlings	2000 (2 terms)	Although he first came to power by coup, he was democratically elected in 1992. He thereafter retired after serving 2 terms.
	John Kufuor	2008 (2 terms)	Retired after serving 2 terms
<b>Kenya</b>	Daniel arap Moi	2002	President since 1978, retired after serving 2 <sup>nd</sup> term under the new dispensation.
	Mwai Kibaki	2013 (2 terms)	He retired after serving 2 terms
	Uhuru Kenyatta	2022 (2 terms)	He retired after serving 2 terms
<b>Liberia</b>	Ellen Johnson Sirleaf	2017 (2 terms)	She retired after serving 2 terms
<b>Mali</b>	Alpha Oumar Konaré	2002 (2 terms)	He retired after serving 2 terms
<b>Mauritania</b>	Mohamed Ould Abdel Azir	2019 (2 terms)	He was a former military leader who under the new dispensation retired after 2 terms in office
<b>Mozambique</b>	Joaquim Chissano	2004 (2 terms)	He retired after serving 2 terms
	Armando Guebuza	2015 (2 terms)	He retired after serving two terms
<b>Namibia</b>	Sam Nujoma	2005 (3 terms)	He retired after serving the third term that a special constitutional amendment has added.
	Hifikepunye Pohamba	2015 (2 terms)	He retired after serving 2 terms
<b>Niger</b>	Mahamadou Issoufou	2021 (2 terms)	He retired after serving 2 terms
<b>Sao Tome and Principe</b>	Miguel Trovoada	2001 (2 terms)	He retired after serving 2 terms
	Fradique de Menezes	2011 (2 terms)	He retired after serving 2 terms
<b>Sierra Leone</b>	Ahmad Tejan Kabbah	2007 (2 terms)	Elected in 1996, he was overthrown by a coup d'état in 1997. Reinstated by the ECOMOG, he was re-elected in 2002. He left power in 2007 at the end of the 2 <sup>nd</sup> term.
	Ernest Bai Koroma	2018 (2 terms)	He retired after serving 2 terms
<b>South Africa</b>	Thabo Mbeki	2008	Elected in 1999, he was re-elected in 2004 but was forced to resign in 2008 before the end of his 2 <sup>nd</sup> term.

	Jacob Zuma	2018	Elected in 2009 and re-elected in 2014, he was forced to resign amid corruption allegations in 2018 before the end of his 2 <sup>nd</sup> term.
<b>Tanzania</b>	Ali Hassan Mwinyi	1995 (2 terms)	He retired after serving 2 terms
	Benjamin Mkapa	2005 (2 terms)	He retired after serving 2 terms
	Jakaya Kikwete	2015 (2 terms)	He retired after serving 2 terms
<b>Zambia</b>	Frederick Chiluba	2002 (2 terms)	He retired after serving 2 terms
<b>Total no. of countries: 17</b>	<b>Total no of Presidents: 33</b>		

What Table 2, read in conjunction with Tables 3 and 4, show is that only 33 presidents of the 213 presidents (including interim presidents and presidents who died in office) who been in power since 1990, at one stage or another, have retired from office after serving their constitutionally restricted terms in office.<sup>8</sup> However, it must be noted that in two cases, those of presidents Bakili Muluzi of Malawi and Olusegun Obasanjo of Nigeria, both incumbents retired only after trying unsuccessfully to amend their constitutions to prolong their stay in power. In South Africa, the second terms of presidents Thabo Mbeki and Jacob Zuma were cut short because they were recalled by their parties. Apart from such recalls, there are also cases where presidents either lost a second-term re-election bid (for example, John Dramani Mahama of Ghana, who lost re-election to President Nana Akufo-Ado, and Goodluck Jonathan of Nigeria who lost his second term re-election bid to Muhammadu Buhari), or died in office before the end of their constitutionally mandated two terms (for example, Levy Mwanawasa and Michael Sata, both of Zambia), or retired after serving only one term (for example, Nelson Mandela of South Africa) (See Table 4 below).

**Table 3. Presidents who sought to tamper with presidential term limit provisions since 1990**

Country	President	Means of overstay	Alleged reasons for not respecting the term limits	Successful / unsuccessful	Observations
<b>Algeria</b>	<b>Abdelaziz Bouteflika</b>	A November 2008 constitutional amendment removed the term limit provision.	He argued that the removal of the term limit will deepen democracy.	Successful	First elected in 1999, he was re-elected in 2004, 2009 and 2014. Popular demonstrations in 2018 discouraged him from running for a fifth term and under pressure from the army, he finally left power in April 2019. The term limits were reintroduced in the 2020 Constitution (art. 92).
<b>Benin</b>	<b>Patrice Talon</b>	An April 2017 draft constitutional amendment sought to change the presidential term to a single term of seven years.	Talon argued that this will strengthen democracy.	Unsuccessful	Parliament rejected the draft constitutional amendment

<sup>8</sup> It is important to note, as Table 4 shows, that the 213 presidents include many interim presidents as well as presidents who resigned or died in office.

<b>Burkina Faso</b>	<b>Blaise Compaoré</b>	In January 1997 a constitutional amendment removed the two terms limits of 7 years each. An amendment of the constitution in April 2000 reintroduced the two terms limit and the 7-year term changed to a 5-year term.	No official reason was given for the 1997 change. The reintroduction of the term limit provision was due to social pressure to promote democratic alternation in power.	The 1997 and 2000 constitutional amendments were successful	President Compaoré took power in a coup in 1987. Officially elected in 1991 for 7 years, he was re-elected in 1998, and in 2005. His eligibility to contest was challenged but the Constitutional Court ruled in his favour. He was re-elected in 2010.
	<b>Blaise Compaoré</b>	In 2014 there was an attempted amendment to remove the term limit provision in the constitution	The argument was that Compaoré was the only one who is able to ensure political stability of the country.	Unsuccessful	Nationwide protest led to a popular insurrection. Compaoré resigned and went on exile
<b>Burundi</b>	<b>Pierre Nkurunziza</b>	A proposal to amend the Constitution was rejected by Parliament in 2014. Nevertheless, in 2015 the president decided to ignore the two terms limit and stand for re-election. The Constitutional Court validated his candidacy.	Nkurunziza argued that the two terms limit did not apply to him, because for the first term in 2005 he was elected by the Congress, not directly by universal suffrage.	Although unsuccessful in amending the constitution the dubious interpretation of the constitution by the Constitutional Court enabled Nkurunziza to stand for a third term.	The president was elected in 2005 by the Congress. He was re-elected in 2010 directly by universal suffrage. He won a third term in 2015, and left power in 2020. The 2020 constitution maintains term limits, but extends each term from five to seven years
<b>Cameroon</b>	<b>Paul Biya</b>	A 2008 constitutional amendment removed the term limits clause	The president argued that the term limits clause was undemocratic	Successful	In power since 1982, he won the 1984 election. He was re-elected in 1988, 1992, 1997, 2004, 2011 and 2018. The constitutional amendment of 2008 was very contested; riot broke out and the security forces killed more than 200 protesters.
<b>Central African Republic</b>	<b>Faustin-Archange Touadéra</b>	He proposed setting up of a new constitution drafting committee in August 2022	Touadéra is strongly suspected of having initiated this constitution drafting committee in order to run for a third term.	Unsuccessful (so far – as the President is seeking ways to force the retirement of the President of the Constitutional Court, presumably to re-table the constitutional amendment).	The project of drafting a new constitution was challenged by a coalition of civil society members, political opponents and intellectuals. The Constitutional Court invalidated the project in September 2022.
<b>Chad</b>	<b>Idriss Déby</b>	A 2005 constitutional amendment	The president alleged that the amendment was not	Successful	Déby took power in a coup in 1990. He was elected in 1996, re-elected in 2001, 2006, 2011,

		removed the term limits provisions in the constitution	meant to benefit him personally		2016 and 2021. He died in April 2021, a few days after his fifth re-election.
<b>Comoros</b>	<b>Azali Assoumani</b>	The constitution was amended in 2018 through referendum.	The president was accused by the political opposition of amending the constitution to prolong his stay in power.	Successful	Assoumani was elected in 2002. In 2006 he left power. He was re-elected in 2016 and in 2019 he won a third term.
<b>Côte d'Ivoire</b>	<b>Alassane Dramane Ouattara</b>	Adoption of a new constitution through referendum in 2016. It sets two terms limit.	President Ouattara who had already served his two terms claimed that the new Constitution resets his term limit back to zero. The Constitutional Court validated his candidacy. Technically, he can run for a fourth term.	Successful	The political opposition jointly called for an 'active boycott' of the electoral process. There were popular demonstrations and security forces killed at least 30 protesters.
<b>Congo-Brazzaville</b>	<b>Denis Sassou-Nguesso</b>	Adoption of a new constitution in 2015 by referendum enabled him to stand for re-election for a third term.	The new constitution enabled him to stand for a third term.	Successful	President Nguesso led the country under the one-party system from 1979 to 1992. He came back to power in 1997 after the civil war. He was elected in 2002 and re-elected in 2009. In 2015, he undertook the adoption of a new constitution by referendum. Many protesters were killed by the security forces.
<b>Democratic Republic of Congo</b>	<b>Joseph Kabila</b>	In 2016, because the Constitution prevented him from running for a third term, he postponed indefinitely the presidential elections. The Constitutional Court also authorised him to stay in power until April 2018.	Kabila claimed that he could not organise elections in 2016 because of the lack of financial resources.	'Successful'	There were protests and security forces killed some protesters and the elections were eventually held in December 2018 after a two-year delay.
<b>Djibouti</b>	<b>Ismail Guelleh</b>	A 2010 constitutional amendment voted by Parliament removed the term limits provision	It was claimed that the change would foster national unity.	Successful	President Guelleh was elected in 1999. He was re-elected in 2005, 2011, 2016 and 2021 for a fifth term.
<b>Eritrea</b>	<b>Isaias Afwerki</b>	The president has never implemented the 1997 Constitution.	Absolute dictatorship; no elections.	'Successful'.	Afwerki is the president of Eritrea since 1993. He has never followed the constitution, and no election has been held

<b>Gabon</b>	<b>Omar Bongo</b>	A 2003 constitutional amendment removed the term limits provisions	No reason given for the change.	Successful	President Bongo was in power since 1967. The first competitive presidential elections were held in 1993. He was re-elected in 1998, and 2005. He died in 2009 while in power.
<b>Guinea Conakry</b>	<b>Lassan Conté</b>	A 2003 constitutional amendment removed the term limit clause	No special reason given	Successful	Conté came to power through a coup in 1984. He was elected in 1993 and re-elected in 1998. In 2003 a constitutional amendment enabled him to stand for re-election for a third term. He died in 2008. His last term was marked by coup attempts and popular protests that were brutally repressed.
	<b>Alpha Condé</b>	New constitution of 2020 adopted through referendum justified resetting of the term limits provision, although it maintains the term limits.	No special reason given	Successful	Alpha Condé was elected in 2010 and re-elected in 2015. At the end of his second term, a new constitution was adopted by referendum enabling him to run for a third term. Popular protests against the changes were violently suppressed, but he was deposed in a coup in 2021.
<b>Malawi</b>	<b>Bakili Muluzi</b>	Constitutional amendment initiated in 2002.	No special reason given.	Unsuccessful	Muluzi was elected in 1994 and re-elected in 1999. The constitutional amendment initiated in 2002 failed because of strong protests by civil society organizations, opposition parties and even of members of the ruling party.
<b>Namibia</b>	<b>Sam Nujoma</b>	A 1998 constitutional amendment enabled the president to stand for a third term.	His supporters claimed that Namibia had no alternative to Nujoma.	Successful	President Nujoma was elected as first president at the independence of Namibia in 1990. He was re-elected in 1994. With the 1998 constitutional amendment by the Parliament, he was re-elected in 1999 for a third term.
<b>Niger</b>	<b>Mamadou Tanja</b>	A new Constitution that removed the term limit provision was adopted in 2009.	President Tanja alleged that the third term is to 'complete some projects he had started'	Unsuccessful	Elected in 1999, re-elected in 2004. In 2009 he undertook a constitutional amendment to run for a third term. The Constitutional Court and the Parliament opposed the constitutional amendment. He dissolved the two institutions, orchestrated adoption of a new constitution via referendum, and won re-election. He was overthrown by a coup in 2010.

<b>Nigeria</b>	<b>Olusegun Obasanjo</b>	A constitutional amendment project was initiated in 2006	No special reason was given.	Unsuccessful	The president was elected in 1999 and re-elected in 2003. In 2006 he initiated a constitutional amendment. But civil society, Parliament and even members of his political party rejected it. Allegations of huge bribes given to parliamentarians to facilitate the vote of the amendment. Obasanjo left power at the end of his second term.
<b>Rwanda</b>	<b>Paul Kagame</b>	Constitutional amendment of 2015 adopted by the Parliament and endorsed by a referendum. The coming into force of the amendment, which allows two term limits, is preceded by a 'transitional presidential term of seven years (2017-2024).'	No special reason was given.	Successful	Kagame was first elected by parliament in 2000 and re-elected in 2003 and 2010. In 2015 he initiated a constitutional amendment that enabled him to stand for re-election in 2017, which he won. He has already announced his intention to run for the 2024 presidential election.
<b>Senegal</b>	<b>Abdoulaye Wade</b>	There were constitutional amendments of 2001 and 2008	President Wade argued that the term limit did not apply to him because it came into effect when he was in office and the Constitutional Council agreed with this interpretation.	Successful	Wade was elected in 2000. In 2001 he initiated a constitutional amendment to establish a five-year term. Re-elected in 2007, he re-established the seven-year term in 2008. He ran again for a third term in 2012, but was defeated by Macky Sall.
	<b>Macky Sall</b>	A constitutional amendment of 2016 approved in a referendum: established a five-year term.	Macky Sall was elected in 2012 for a seven-year term. He was re-elected in 2019 for five years. There is suspicion that he is considering that the 2016 constitutional amendment reset the clock and will enable him to run for a second five-year term.	Unknown	Many politicians and civil society organizations have already expressed their opposition to any eventual third term bid by Macky Sall.
<b>South-Sudan</b>	<b>Salva Kiir</b>	The constitution does not have term limit provisions. But in 2015 presidential elections were postponed. A law was passed by	The political crisis and civil war are the official reasons for postponing the elections.	'Successful'	President Salva Kiir became president at independence in 2011. Presidential elections were supposed to be held in 2015, but have been postponed.

		Parliament in July 2018 extending Salva Kiir's term for three years.			
<b>Sudan</b>	<b>Omar al-Bashir</b>	Draft constitutional amendment of 2018	To enable president al-Bashir to run for a sixth term.	Unsuccessful	In power since 1989, al-Bashir was elected in 1996, and re-elected in 2000, 2011 and 2015. In 2018, he declared his intention to run for a 6 <sup>th</sup> term in the 2020 presidential elections. He planned to amend the constitution which sets the maximum number of terms at two. In 2019, in the wake of a large popular protest movement, the army deposed and arrested al-Bashir.
<b>Togo</b>	<b>Gnassingbé Eyadema</b>	A constitutional amendment of December 2002 approved by Parliament removed the term limits.	To enable Eyadema to stand for re-election in 2003.	Successful	In power since a 1967 coup, Eyadema was elected in 1972, and re-elected in 1979, 1986, 1993, 1998. He was re-elected in 2003. He died in office in 2005.
	<b>Faure Gnassingbé</b>	A constitutional amendment of 2019 re-established a two term limits.	To enable Faure to stand for re-election until 2025.	Successful	When the term limit was established, Faure had already spent 14 years in power. The new term limit clause applies to the 2020 elections. Faure was elected in 2020 for his first term. He can run for re-election in 2025.
<b>Tunisia</b>	<b>Zine el-Abidine Ben Ali</b>	A constitutional amendment of 2002 approved by referendum removed the term limit that has been introduced in 1998.	To enable Ben Ali to run for re-election until 2014.	Successful	Ben Ali, was ousted in 2011 after popular uprisings. The term limits were reinstated in the 2014 Constitution.
<b>Uganda</b>	<b>Yoweri Museveni</b>	A constitutional amendment of 2005 removed the term limit.	Museveni claimed that he was indispensable for Uganda's stability and prosperity	Successful	Museveni was in power since 1986. He is serving his 6 <sup>th</sup> term. The 2005 constitutional amendment was operated in a context of widespread intimidation, violence and bribery of the members of the parliament to approve the amendment. Term limits were reinstated in 2017, while age limits were removed to allow him to run again.
<b>Zambia</b>	<b>Frederick Chiluba</b>	He Attempted to amend the constitution in 2001	To enable Chiluba to run for a third term	Unsuccessful.	In spite of widespread intimidation, violence and bribery, the attempt failed because of opposition by civil society and even members of the president's party.

In contrast to Table 2, Table 3 shows that a majority of presidents sought to prolong their stay in power by tampering with or subverting the restraints imposed by presidential term limit provisions. Of these, 22 presidents in as many countries – compared to 33 presidents in 17 countries who have respected term limits - have succeeded to prolong their terms. Table 4 on the other hand shows the limited extent to which there has been alternation of power since 1990.

**Table 4. African Presidents since 1990 and the extent of the alternation of power in their countries**

Country	Presidents	Start and Length of stay in power	Manner of replacement
<b>Algeria</b>	Mohamed Boudiaf	January – June 1992 (5 months)	Interim president - assassinated
	Ali Kafi	1992 – 1994 (1 year 6 months)	Interim president
	Liamine Zéroual	1994-1999 (5 years)	Resignation
	Abdelaziz Bouteflika	1999 – 2019 (19 years)	Resignation – provoked by popular protests
	Abdelmadjid Tebboune	December 2019 - ...	Current President
<b>Angola</b>	José Eduardo dos Santos	1979 – 2017 (38 years)	Elections after he stepped down and nominated a successor
	Joao Lourenço	2017 - ...	Current president
<b>Benin</b>	Nicéphore Soglo	1991 – 1996 (5 years)	Elections
	Mathieu Kérékou	1996 – 2006 (10 years) (Before: 1980 – 1991 (11 years))	Term limits
	Thomas Yayi Boni	2006 – 2016 (10 years)	Term limits
	Patrice Talon	2016 - ...	Current president
<b>Botswana</b>	Ketumile Masire	1980 – 1998 (17 years)	Resignation
	Festus Mogae	1998 -2008 (9 years 11 months)	Resignation because of ten-year term limit
	Seretse Khama Ian Khama	2008 – 2018 (9 years 11 months)	Resignation because of ten-year term limit
	Mokgweetsi Masisi	2018 - ...	Current president
<b>Burkina Faso</b>	Blaise Compaoré	1987 – 2014 (27 years)	Popular insurrection and (soft) coup d'état
	Isaac Zida	1st - 21 November 2014 (20 days)	Interim president
	Michel Kafando	2014 – 2015 (1 year)	President of the transition
	Roch Marc Christian Kaboré	2015 – 2022 (6 years)	Military coup d'état
	Paul-Henri Damiba	31 January - 30 September 2022 (7 months as president of the transition)	Military coup d'état
	Ibrahim Traoré	30 September 2022 -	Coup leader and current president (interim president)
<b>Burundi</b>	Melchior Ndadaye	July – October 1993 (3 months)	Military coup d'état
	Cyprien Ntaryamira	February – April 1994 (2 months)	Death by assassination (in the same flight with president Habyarimana of Rwanda)
	Sylvestre Ntibantunganya	1994 – 1996 (2 years)	Interim president overthrown by military coup d'état
	Pierre Buyoya	1996 – 2003 (6 years)	Left the power according to the Arusha agreements
	Domitien Ndayizeye	2003 – 2005 (2 years, 3 months)	Elections
	Pierre Nkurunziza	2005 -2020 (14 years, 9 months)	Elections. Stepped down after third term.
	Evariste Ndayishimiye	2020 - ...	Current president



<b>Cabo Verde</b>	Antonio Mascarenhas Monteiro	1991 – 2001 (10 years)	Term limits
	Pedro Pires	2001 – 2011 (10 years)	Term limits
	Jorges Carlos Fonseca	2011 – 2021 (10 years)	Term limits
	José Maria Neves	2021 - ...	Current president
<b>Cameroon</b>	Paul Biya	1982 – ... (40 years)	Current president
<b>Central African Republic (CAR)</b>	André Kolingba	1981 – 1993 (12 years)	Elections
	Ange-Félix Patassé	1993 – 2003 (9 years)	Military coup d'état
	François Bozizé	2003 – 2013 (10 years)	Military coup d'état
	Michel Djotodia	2013 – 2014 (9 months)	Coup leader and President of transition
	Alexandre-Ferdinand N'Guendet	10 – 23 January 2014 (less than a month)	Interim president
	Catherine Samba-Panza	2014 – 2016 (2 years)	President of transition and elections
	Faustin-Archange Touadéra	2016 - ...	Current president
<b>Chad</b>	Idriss Déby Itno	1990 – 2021 (30 years, 4 months)	Death
	Mahamat Idriss Déby	April 2021 - ...	Current president of transition
<b>Comoros</b>	Saïd Mohamed Djohar	1989 – 1996 (6 years)	Elections
	Mohamed Taki Abdoukarim	1996 -1998 (2 years)	Death
	Tadjidine Ben Saïd Massoude	November 1998 – April 1999 (5 months)	Interim President and Military coup d'état
	Azali Assoumani	1999 – 2002 (2 years)	President of transition
	Hamadi Madi Boléro	January – May 2002 (4 months)	Interim President and Elections
	Azali Assoumani	2002 -2006 (5 years)	Term limits
	Ahmed Abdallah Mohamed Sambi	2006 – 2011 (5 years)	Term limits
	Ikililou Dhoinine	2011 – 2016 (5 years)	Term limits
	Azali Assoumani	2016 – ...	Current president
	<b>Congo (Republic of Congo)</b>	Pascal Lissouba	1992 – 1997 (5 years)
Denis Sassou-Nguesso		1997 - ... (24 years)	Current president
<b>Congo (Democratic Republic)</b>	Laurent-Désiré Kabila	1997 – 2001 (3 years)	Assassination
	Joseph Kabila Kabange	2001 – 2019 (18 years)	Term limits
	Félix Tshisekedi	2019 - ...	Current President
<b>Cote d'Ivoire</b>	Henri Konan Bédié	1993 – 1999 (6 years)	Military coup d'état
	Robert Guéï	December 1999 – October 2000 (10 months)	Interim president and Elections
	Laurent Gbagbo	2000 – 2011 (10 years)	Elections. Refused to step down after losing, and was forced to leave power
	Alassane Ouattara	2011 - ... (11 years)	Current President
<b>Djibouti</b>	Hassan Gouled Aptidon	1977 – 1999 (21 years)	Elections after he stepped down and nominated a successor
	Ismâïl Omar Guelleh	1999 - ... (23 years)	Current President
<b>Egypt</b>	Hosni Mubarak	1981 – 2011 (29 years)	Ousted by popular insurrection
	Mohamed Hussein Tantawi	February 2011 – June 2012 (1 year, 4 months)	Interim President
	Mohamed Morsi	2012 – 2013 (1 year)	Military coup d'état
	Adli Mansour	July 2013 – June 2014 (11 months)	Interim President
	Abdel Fattah al-Sissi	2014 - ... (8 years)	Current President
<b>Equatorial Guinea</b>	Teodoro Obiang Nguema Mbasogo	1979 - ... (43 years)	Current President
<b>Eritrea</b>	Isaias Afwerki	1993 - ... (28 years)	Current president
<b>Eswatini</b>	Monarchy	Monarchy	Monarchy
<b>Ethiopia</b>	Parliamentary system with a Prime Minister	Parliamentary system with a Prime Minister	Parliamentary system with a Prime Minister
<b>Gabon</b>	Omar Bongo	1967 – 2009 (41 years)	Death

	Rose Rogombé	June – October 2009 (4 months)	Interim President
	Ali Bongo	2009 - ... (12 years)	Current President
<b>Gambia</b>	Yahya Jammeh	1994 – 2017 (22 years)	Elections and forced to leave power after refusing to concede defeat
	Adama Barrow	2017 - ... ( 5 years)	Current President
<b>Ghana</b>	Jerry Rawlings	1981 – 2001 (19 years)	Term limits
	John Kufuor	2001 – 2009 (8 years)	Term limits
	John Atta Mills	2009 – 2012 (3 years)	Death
	John Dramani Mahama	2012 – 2017 (4 years)	Elections
	Nana Akufo-Addo	2017 - ... (5 years)	Current President
<b>Guinea-Bissau</b>	João Bernardo Vieira	1984 – 1999 (14 years, 11 months)	Civil War and Military coup d'état
	Ansumane Mané	7 – 14 May 1999 (7 days)	Left power to an interim president
	Malam Bacai Sanhá	May 1999 – February 2000 (9 months)	Interim president
	Kumba lalà	2000 – 2003 (3 years)	Military coup d'état
	Verissimo Correia Seabra	14 – 28 September 2003 (14 days)	Left power to a president of transition
	Henrique Rosa	2003 – 2005 (2 years)	President of transition and Elections
	João Bernardo Vieira	2005 – 2009 (3 years)	Assassination
	Raimundo Pereira	Mars – September 2009 (6 months)	Elections
	Malam Bacai Sanhá	2009 – 2012 (2 years)	Death
	Raimundo Pereira	January – April 2012 (3 months)	Military coup d'état
	Mamadou Ture Kuruma	April – May 2012 (29 days)	Left power to a president of transition
	Manuel Serifo Nhamadjo	2012 – 2014 (2 years)	Elections
	José Mário Vaz	2014 – 2020 (5 years)	Elections
	Umaro Sissoco Embalo	2020 - ... 2 years	Current President
	<b>Guinea-Conakry</b>	Lansana Conté	1984 – 2008 (24 years)
Moussa Dadis Camara		2008 – 2010 (1 year)	Tentative of assassination and Exile
Sékouba Konaté		January – December 2010 (11 months)	Interim President and Elections
Alpha Condé		2010 – 2021 (10 years, 8 months)	Military coup d'état
Mamadi Doumbouya		September 2021 - ... (1 year)	Current transition president
<b>Kenya</b>	Daniel arap Moi	1978 – 2002 (24 years)	Term limits
	Mwai Kibaki	2002 – 2013 (10 years)	Term limits
	Uhuru Kenyatta	2013 – 2022 (10 years)	Term limits
	William Ruto	2022 - ...	Current Present
<b>Lesotho</b>	Monarchy	Monarchy	Monarchy
<b>Liberia</b>	Charles Taylor	1997 – 2003 (6 years)	Forced resignation
	Moses Blah	August - October 2003 (2 months)	Interim President
	Gyude Bryant	2003 – 2006 (2 years)	President of transition and Elections
	Ellen Johnson Sirleaf	2006 -2018 (12 years)	Term limits
	George Weah	2018 - ... (4 years)	Current President
<b>Libya</b>	Mouammar Gadhafi	1969 – 2011 (41 years)	Popular insurrection and assassination
<b>Madagascar</b>	Albert Zafy	1993 – 1996 (3 years)	Impeached by Parliament
	Norbert Ratsirahonana	September 1996 – February 1997 (5 months)	Interim President and Elections
	Didier Ratsiraka	1997 – 2002 (5 years)	Highly contested elections and forced to leave power
	Marc Ravalomanana	2002 -2009 (7 years)	Protests and (soft) coup d'état
	Andry Rajoelina	2009 – 2014 (4 years, 10 months)	President of transition and stepped down because of African Union and SADC pressure
	Henry Rajaonarimampianina	2014 – 2018 (4 years)	Elections
	Andry Rajoelina	2019 - ... (3 years)	Current President
<b>Malawi</b>	Bakili Muluzi	1994 – 2004 (10 years)	Term limits
	Bingu wa Mutharika	2004 – 2012 (7 years 10 months)	Death
	Joyce Banda	2012 – 2014 (2 years)	Interim President and Elections
	Peter Mutharika	2014 – 2020 (6 years)	Elections
	Lazarus Chakwera	2020 - ... (2 years)	Current President

<b>Mali</b>	Amadou Toumani Touré	1991 – 1992 (1 year)	Interim President and Elections
	Alpha Oumar Konaré	1992 – 2002 (10 years)	Term limits
	Amadou Toumani Touré	2002 – 2012 (9 years)	Military coup d'état
	Amadou Haya Sanogo	February – August 2013 (6 months)	Agreement with ECOWAS
	Dioncounda Traoré	2012 – 2013 (1 year)	Interim President and Elections
	Ibrahim Boubacar Keïta	2013 – 2020 (6 years 11 months)	Military coup d'état
	Assimi Goïta	August – September 2020 (1 month)	President <i>de facto</i>
	Bah N'Daw	September 2020 – May 2021 (7 months)	President of transition and (soft) coup d'état
	Assimi Goïta	May 2021 - ... (1 year)	Current President of transition
<b>Mauritania</b>	Maaouiya Ould Sid'Ahmed Taya	1985 – 2005 (20 years)	Military coup d'état
	Ely Ould Mohamed Vall	2005 – 2007 (1 year, 8 months)	Elections
	Sidi Mohamed Ould Cheikh	2007 – 2008 (1 year)	Military coup d'état
	Mohamed Ould Abdel Aziz	2008 – 2009 (8 months)	Left power to an interim president and run for the next elections
	Ba Mamadou M'Baré	April – August 2009 (3 months)	Interim president and elections
	Mohamed Ould Abdel Azii	2009 – 2019 (9 years, 11 months)	Term limits
	Mohamed Ould Ghazouani	2019 - ... (3 years)	Current President
<b>Morocco</b>	Monarchy	Monarchy	Monarchy
<b>Mozambique</b>	Joaquim Chissano	1986 – 2005 (18 years)	Term limits
	Armando Guebuza	2005 – 2015 (10 years)	Term limits
	Filipe Nyusi	2015 - ... (7 months)	Current President
<b>Namibia</b>	Sam Nujoma	1990 – 2005 (15 years)	Term limits
	Hifikepunye Pohamba	2005 -2015 (10 years)	Term limits
	Hage Geingob	2015 - ... (7 years)	Current President
<b>Niger</b>	Mahamane Ousmane	1993 – 1996 (2 years, 9 months)	Military coup d'état
	Ibrahim Baré Maïnassara	1996 – 1999 (3 years)	Military coup d'état
	Daouda Malam Wanké	April – December 1999 (8 months)	Elections
	Mamadou Tandja	1999 – 2010 (10 years)	Military coup d'état
	Salou Djibo	2010 – 2011 (1 year)	Elections
	Mahamadou Issoufou	2011 – 2021 (10 years)	Term limits
	Mohamed Bazoum	2021 - ... (1 year)	Current President
<b>Nigeria</b>	Sani Abacha	1993 – 1998 (4 years)	Death
	Abdulsalami Abubakar	June 1998 – May 1999 (11 months)	Elections
	Olusegun Obasanjo	1999 – 2007 (8 years)	Term limits
	Umaru Yar'Adua	2007 – 2010 (2 years, 11 months)	Death
	Goodluck Jonathan	2010 – 2015 (5 years)	Elections
	Muhammadu Buhari	2015 - ... (7 years)	Current President
<b>Rwanda</b>	Pasteur Bizimungu	1994 – 2000 (5 years)	Interim President and Resignation
	Paul Kagame	2000 - ... (22 years)	Current President
<b>Sao Tome and Principe</b>	Miguel Trovoada	1991 – 2001 (10 years)	Term limits
	Fradique de Menezes	2001 – 2011 (10 years)	Term limits
	Manuel Pinto da Costa	2011 – 2016 (5 years)	Elections
	Evaristo Carvalho	2016 – 2021 (5 years)	Elections
	Carlos Vila Nova	2021 - ... (1 year)	Current President
<b>Senegal</b>	Abdou Diouf	1981 – 2000 (19 years)	Elections
	Abdoulaye Wade	2000 – 2012 (12 years)	Elections
	Macky Sall	2012 - ... (10 years)	Current President
<b>Seychelles</b>	France-Albert René	1977 – 2004 (26 years, 10 months)	Resignation
	James Michel	2004 – 2016 (12 months)	Resignation
	Danny Faure	2016 – 2020 (4 years)	Elections
	Wavel Ramkalawan	2020 - ... (2 years)	Current President
<b>Sierra Leone</b>	Joseph Saidu Momoh	1985 – 1992 (6 years)	Military coup d'état
	Valentine Strasser	1992 – 1996 (3 years)	Military coup d'état

	Julius Maada Bio	January – March 1996 (2 months)	Interim president and Elections
	Ahmad Tejan Kabbah	1996 – 2007 (11 years)	Term limits
	Ernest Bai Koroma	2007 – 2018 (10 years)	Term limits
	Julius Maada Bio	2018 - ... (4 years)	Current President
<b>Somalia</b>	Abdiqasim Salad Hassan	2000 – 2004 (4 years)	President of transition
	Abdullahi Yusuf Ahmed	2004 – 2008 (4 years)	President of transition
	Adan Mohamed Nuur Madobe	December 2008 – January 2009 (1 month)	Interim President
	Sharif Sheikh Ahmed	2009 – 2012 (3 years)	Elections
	Hassan Sheikh Mohamoud	2012 – 2017 (4 years)	Elections
	Mohamed Abdullahi Mohamed	2017 – 2022 (5 years)	Elections
	Hassan Sheikh Mohamoud	2022 - ...	Current President
<b>South Africa</b>	Nelson Mandela	1994 – 1999 (5 years)	Stepped down after serving one term
	Thabo Mbeki	1999 – 2008 (9 years)	Resignation
	Kgalema Motlanthe	September 2008 – May 2009 (7 months)	Interim President and Elections
	Jacob Zuma	2009 – 2018 (8 years)	Resignation
	Cyril Ramaphosa	2018 - ... (4 years)	Current President
<b>South Sudan</b>	Salva Kiir	2011 - ...	Current President
<b>Sudan</b>	Omar Hassan al-Bashir	1989 – 2019 (29 years)	Popular insurrection and Military coup d'état
	Abdel Fattah al-Burhan	2019 - ... (3 years)	President of transition
<b>Tanzania</b>	Benjamin Mkapa	1995 – 2005 (10 years)	Term limits
	Jakaya Kikwete	2005 – 2015 (10 years)	Term limits
	John Magufuli	2015 – 2021 (5 years)	Death
	Samia Suluhu	2021 - ... (1 year)	Current President
<b>Togo</b>	Gnassingbé Eyadéma	1967 – 2005 (37 years)	Death
	Faure Gnassingbé	2005 - ... (17 years)	Current President
<b>Tunisia</b>	Zine el-Abidine Ben Ali	1987 – 2011 (23 years)	Ousted by popular insurrection
	Fouad Mebazaa	January – December 2011 (10 months)	Interim President
	Moncef Marzouki	2011 – 2014 (3 years)	Elections
	Béji Caïd Essebsi	2014 – 2019 (4 years)	Death
	Mohamed Ennaceur	July – October 2019 (3 months)	Interim President and Elections
	Kaïs Saïed	2019 - ... (2 years)	Current President
<b>Uganda</b>	Yoweri Museveni	1986 - ... (36 years)	Current President
<b>Zambia</b>	Frederick Chiluba	1991 – 2002 (10 years)	Term limits
	Levy Mwanawasa	2002 – 2008 (6 years)	Death
	Rupiah Banda	2008 – 2011 (3 years)	Elections
	Michael Sata	2011 – 2014 (3 years)	Death
	Guy Scott	October 2014 – January 2015 (3 months)	Interim President and Elections
	Edgar Lungu	2015 – 2021 (6 years)	Elections
	Hakainde Hichilema	2021 - ... (1 year)	Current President
<b>Zimbabwe</b>	Robert Mugabe	1987 – 2017 (29 years)	Soft Military coup d'état and resignation
	Emmerson Mnangagwa	2017 - ... (4 years)	Current President

Incumbents have circumvented term-limit provisions in at least four main ways:

- First, there is a group of countries where the constitution was amended through parliament and senate or only the former. Such was the case with the constitutional amendments in Cameroon (2008), Gabon (2003), Djibouti (2010) and Namibia (1999).
- In a second group of countries, this was done either through the amendment of the constitution or the introduction of a new constitution followed by an approval at a referendum. Examples of this approach took place in Burkina Faso (1997), Chad (2005), Guinea (2001 and 2020), Niger (2009), Rwanda (2015) and Uganda (2005).
- A third method has been to use the courts to legalise or facilitate the circumvention of presidential term limits. Such was the case in Burundi (2015), Côte d'Ivoire (2020), the DR Congo (2016), Republic of Congo (2015) and Senegal (2012).
- A fourth approach is that used in Eritrea, where President Isaias Afwerki has never bothered to implement, or even pretend to follow, the country's 1997 constitution.

An examination of the nature of amendments made to the presidential term-limit provisions since 1990 reveals five main trends.<sup>9</sup>

- First, some of the amendments led to the formal extension of the presidential term from five to six years (Burundi [2018] and Chad [2018]) and five to seven years (Gabon [2003], and Rwanda [2016]; in other instances, there was an informal ad hoc extension, as in DR Congo (2016) and South Sudan (2015 and 2018).
- In a second group of countries, amendments served to increase the number of presidential terms. In the Comoros (2018), it increased from one to two presidential terms, whilst the Republic of Congo (2015) increased the number from two to three.
- Thirdly, in a number of countries where incumbents had reached, or were about to reach, the end of their constitutionally mandated term, the effect of the constitutional amendment was to reset the presidential term-limit clock and start anew uninhibited by the previous constitutional term limits. Whilst the new 2016 Constitution of Zambia in article 106(6)(b) failed to achieve this goal for former President Edgar Lungu, given that he lost the 2021 presidential elections,<sup>10</sup> the effect of new constitutions, or of the constitutional amendments in Zimbabwe (2013), the Republic of Congo (2015), and Rwanda (2015), has been to reset the clock.
- The fourth category of countries are those where the presidential term limits were removed entirely from the constitution. This happened in Algeria (2008), Cameroon (2008) – which also increased each term from five to seven years, Chad (2005), Gabon (2003), Djibouti (2009), Guinea (2001), Niger (2009), Togo (2002), Tunisia (2002) and Uganda (2005). As we shall see, in certain of these countries the provisions were reinstated, sometimes opportunistically.

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<sup>9</sup> See also Micha Wiebusch and Christina Murray, 'Presidential term limits and the African Union', (2019) 63 *Journal of African Law* 131-160.

<sup>10</sup> Drafted under the influence of President Lungu, the new constitution was explicitly designed to change the definition of 'presidential term' in a manner which would ensure that Lungu qualified to contest the 2021 presidential elections, notwithstanding that, at that point, he had already served two terms and was eight months into what was technically his third term.

- An important category consists of those instances where the effect of the changes was to introduce or strengthen presidential term limits. For example, after they had become the norm, presidential term limits were introduced fairly late in the day in countries such as Côte d’Ivoire (2000), Egypt (2014), Equatorial Guinea (2011), DR Congo (2006) and Senegal (2001). However, it is worth noting that they were introduced in Equatorial Guinea two years after the re-election of the incumbent and were designed to apply only when he began a new mandate. This mandate took effect in 2016 and extends until 2023, enabling him to stand for a second term that would run from 2023 to 2030. Presidential term limits were re-introduced in Algeria (2016), Burkina Faso (2000), Chad (2018), Niger (2010) and Uganda (2017).
- Presidential term limits were slightly enhanced when the terms were shortened from seven to five years in Burkina Faso (2000), Côte d’Ivoire (2000), DR Congo (2006), Senegal (2001 and 2016) and Rwanda (2015); from six to five years in Central African Republic (2004), Mauritania (2006) and Zimbabwe (2013); and from six to four years in the Comoros (2001) and Egypt (2014). In Madagascar (2010) and Seychelles (2016), constitutional changes resulted in a reduction of the number of terms a person may serve from three to two.
- In a few constitutions, the changes to the presidential term limits provisions tightened them and removed ambiguity, especially as to whether the restriction applies only to consecutive terms. Examples of such clear and unambiguous formulations appear in the constitutions of Algeria (2020), Benin (2019), Botswana (2016), Guinea-Bissau (1996), Niger (2017), Tanzania (2005), Tunisia (2014) and Zimbabwe (2017).

Although Tables 2 and 3 show that there is a marked increase in the number of African leaders who have left office due to term limits or electoral loss, rather than through coups, assassinations or other involuntary means, the record of compliance with presidential term limits is nonetheless far from positive.<sup>11</sup> There is still a high degree of non-compliance. What could explain non-compliance with presidential term-limit provisions?

From the prodigious literature on presidential term limits in Africa (See Annex 2), the main causes of this evasion can be summarised as follows:

- the intoxicating effect that excessive concentration of powers has on presidents;
- weak foundations for multipartyism and limited checks and balances;
- sloppy craftsmanship of constitutional presidential term-limit provisions; and
- lack of strong external support from the international community.<sup>12</sup>

The first serious problem is that African leaders are not only deified but often given, or allowed to arrogate to themselves, imperial powers, which they abuse regularly with impunity. The excessive concentration of powers in the president, combined with few effective checks against abuse, elevates him into an untouchable ‘Big Man’ whose party often controls parliament and thus places it under his control. His wide powers of appointment in both the public and semi-public sector, along with his total control of the

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<sup>11</sup> Many other studies have come to a similar conclusion. For instance, see Rosalind Dixon and David Landau, ‘Constitutional end games: Making presidential term limits stick’, 71 *Hastings Law Journal* (2020), pp.359-418.

<sup>12</sup> These are discussed in Charles M. Fombad, ‘Presidential term limits through constitutional amendments in Africa: Deconstructing legitimacy’, in Grant Masterson and Melanie Meirotti (eds.), *Checks and balances: African constitutions and democracy in the 21st Century* (EISA 2017) 45-58.

country's resources, enable him to dispense patronage amongst his supporters. The non-political public service is in most countries a thing of the past, if it ever existed: presidential authority typically includes the power to appoint and dismiss public servants almost at will, as well as the power to create and abolish new offices if and when needed in order to reward supporters or sanction opponents. This also means that the president has thousands of people whose access to power and resources depend on him continuing, increasing the stakes of respecting term limits. Close allies therefore seek to strengthen and/or generate the delusion of grandeur and irreplaceability in the president, exacerbating the corruption and addictive influence of power.

Such excessive concentration of powers under modern African constitutions has merely transformed the hard-core hegemonic authoritarianism of the past into a soft-core authoritarianism cloaked with the veneer of legitimacy provided by routine sham elections with forgone conclusions. State employees now feel beholden to the incumbent rather than to the state and its institutions, and thus have no hesitation in adopting or supporting measures that would perpetuate a status quo in the survival of which they have a deeply personal stake.

It is therefore probably wishful thinking to expect politicians exposed to such powers and splendour to relinquish power voluntarily. No modern African leader better illustrates the intoxicating effect of absolute power on African leaders than President Museveni of Uganda. In 1986, shortly after he came to power, he declared that 'no African head of state should be in power for more than 10 years.' He reiterated this in his book, *What is Africa's Problem?*, maintaining that the longer a president stays in office, the harder it is to remove him in a democratic manner.<sup>13</sup> It is the same Museveni – a person who had no moral compunction in retorting to Obama's appeal address to AU leaders in Addis Ababa in July 2015 by declaring that 'nobody should be president for life' – who went on to say, 'For us in Uganda, we rejected this business of term limits. If I am in power because I am voted by the people, then I am there by the will of the people.'<sup>14</sup>

What was it that transformed a leader who rejected prolonged stays in power because he believed that incumbents should periodically be democratically removed into one who now holds that the ballot box, and not the term limit, is the answer? One simple answer lies in a combination of the indolence of the people and the dangerously addictive opium of absolute power. It is not only Museveni who was easily and quickly morphed into a repressive dictator; others who initially brandished their democratic credentials for all to see – such as Olusegun Obasanjo of Nigeria, Abdoulaye Wade of Senegal, and even South Africa's Thabo Mbeki – engaged in escapades of their own to extend their presidential term-limits but failed.<sup>15</sup>

A second factor contributing to the disregard of presidential term-limit provisions is the sloppy manner in which some African constitutions have been drafted. Whilst many are well drafted,<sup>16</sup> there are numerous examples of loosely worded provisions (see Annex 1). For example, some provisions are worded in such a way that it is not clear whether the specified two terms exclude the possibility of the incumbent's

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<sup>13</sup> See Yoweri Museveni, *What is Africa's problem?* Minneapolis, University of Minnesota Press (2002).

<sup>14</sup> See Vanguard, 'Term limits: Africans not backward, Museveni replies [to] Obama', <https://www.vanguardngr.com/2015/08/term-limits-africa-not-backward-museveni-replies-obama/>

<sup>15</sup> It can be argued that Thabo Mbeki, when he fought to win a third term as the African National Congress (ANC) president at the party's Polokwane congress of 2007, was seeking a third term because had he won, he would have automatically become the ANC's presidential candidate. However, he would have had to overcome the two-term tenure limit in the South African Constitution and the two-thirds majority needed to amend the Constitution.

<sup>16</sup> See, for example, the constitutions of Algeria, Benin, Botswana, Guinea-Bissau, Sierra Leone, Tanzania and Zimbabwe.

contesting future elections after the term for which he is disqualified has ended.<sup>17</sup> Incumbents have used malleable courts to creatively interpret legal ambiguities and constitutional loopholes to rule in their favour. President Nkurunziza's third bid was made possible thanks to two potentially contradictory provisions in the 2005 Burundi Constitution, namely articles 96 and 302. This made it easy for him to intimidate the Constitutional Court into adopting an interpretation of the constitution favouring his position.<sup>18</sup>

A similarly clumsy formulation of the Senegalese Constitution of 2001 and the Burkina Faso Constitution of 2005 made it easy for President Abdoulaye Wade and Blaise Compaore, respectively, with the complicity of their constitutional courts, to attempt a third-term bid. Whilst Wade was, surprisingly for an African incumbent who had served two terms, thwarted by the voters at the polls, Blaise Compaore had an easy and more predictable victory. In Niger, a puppet constitutional court appointed by President Tandja in 2010 easily ratified the constitutional amendment which had been approved in a sham referendum.

Another example of obscure language that could be abused by an incumbent is the wording of the provisions stating that a term begins with inauguration and ends with the inauguration of the new president.<sup>19</sup> For example, in DR Congo, President Joseph Kabila exploited loose wording in the 2005 Constitution, which allowed him to stay in power until his successor was elected, to delay elections for as long as possible. Some constitutional drafters have thought that the best way to protect term-limit provisions is to declare them unamendable (see the Constitutions of Algeria, Central African Republic, DR Congo, Madagascar, Niger and Senegal), but the constitutional courts in, for instance, the Republic of Congo (2015), and Guinea (2020) ignored this, ostensibly on grounds that existing limits on amendments do not apply to the making of new constitutions.

The requirement of specially weighted parliamentary majorities or referenda have not been sufficient to protect the removal of term limits by determined presidents. A sham referendum in the Republic of Congo in 2015, with a voter turnout of 5 per cent, shows that referenda, like election, can be manipulated easily by incumbents, and highlights how illusory such supposedly unamendable provisions are. By contrast, a strict interpretation by the Malawi High Court of 'consecutive terms' frustrated Bakili Muluzi's third-term bid.

The fragility of presidential term-limit provisions also speaks eloquently to the weak multiparty foundation of modern African constitutions. Post-1990 constitution-drafters were naïve to assume that multiparty democracy, of which presidential-term limitation provisions are an important component, would flourish simply by dint of recognition of multipartyism. The rapid removal of term-limit provisions is a predictable result of the shallow foundations on which most African multiparty democracies are built. All too often, political parties on the continent are too weak, fragmented and self-serving to exert effective pressure on presidents to leave office. In most cases, members of the majority or dominant parties encourage presidents to stay in power as a means for them to retain their parliamentary seats or appointed positions.

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<sup>17</sup> See the constitutions of Angola, Burundi, Egypt, Gambia and Senegal.

<sup>18</sup> See 'Senior judge flees rather than approve president's candidacy',

<http://www.theguardian.com/world/2015/may/05/senior-burundi-judge-flees-rather-than-approve-presidents-candidacy>. It was widely reported that Judge Sylvere Nimpagaritse, the vice president of the Burundi Constitutional Court who refused to sign the judgement which he declared illegal, fled from the country. He said that the court's judges had come under 'enormous pressure and even death threats.'

<sup>19</sup> See the constitutions of Angola, Cabo Verde, Central African Republic, Malawi, Republic of Congo, Togo, Tunisia and Uganda. Other examples of obscure wording can be seen in the constitutions of Equatorial Guinea and South Africa.



Beyond the recognition of the right to form parties and participate in elections, certain fundamental political rights that are critical in a modern multiparty democracy are hardly recognised. The failure to constitutionally entrench the rights of all political parties in a manner which ensures them a level playing field, protects them from intimidation, and confers on them an enforceable right to free and fair elections has had numerous consequences. The control of the legislature by the executive in almost all African countries has effectively neutralised any checks and balances that could have been exercised by the legislature to prevent term-prolongation manoeuvres by presidents. In other words, the ability of the legislature in many countries to check against any actual or potential manipulation of the constitution by incumbents is almost nil because the presidents, through their dominant parties, are in control.

As the tables above show, parliamentarians (with rare exceptions such as what happened in Burundi 2014, Malawi in 2007, Nigeria in 2006 and Zambia in 2001) easily approved laws removing term limits. The progressive repeal of term limits has gone hand in hand with the increasing neutralisation of opposition parties and the undermining of the emergence of potentially credible leaders. Any serious political parties or leaders are either neutralised or co-opted into ruling parties through coalitions in which they share the spoils of power.

Finally, as explained below in section 7, at both a continental and global level there has been a lack of firm and decisive action to discourage African presidents from subverting the constitutional term limits provisions.

#### **4. Arguments for and against presidential term limits**

In spite of its long history, many African presidents and even some academics have questioned the legality, legitimacy and effectiveness of constitutionalising presidential term limits as a means of promoting and deepening democracy, constitutionalism and respect for the rule of law in Africa. There is thus a need to consider some of the major arguments for and against term limits.

##### ***4.1 Arguments in favour of presidential term limits***

The first and probably most important argument in favour of term limits is that they enhance the prospects for democracy by ending the ‘presidents-for-life’ syndrome that had done nothing but uphold incompetent and repressive leaders and dynasties in Africa. According to this argument, term limits facilitate alternation of power at specified periods and prevent the high risk of one person’s accumulating power for a prolonged period. Prolonged stays in power with little prospect of their removal led many African leaders to lose touch with the grassroots and become corrupt, repressive and inefficient, a situation necessitating their forcible removal through coups.

The absence of any prospect of alternation of power led many African presidents to delude themselves about their self-worth, indispensability and irreplaceability, a self-delusion that grew the longer they stayed in power. For example, leaders such as Museveni of Uganda, Obasanjo of Nigeria, and Sam Nujoma of Namibia justified their efforts to manipulate presidential term limits provisions so as to prolong their stay in power by referring to their exceptional abilities and the need for them to complete their messianic missions.<sup>20</sup> However, impermanency in high office is a fundamental democratic principle. The regular

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<sup>20</sup> See further Charles M Fombad and Nathaniel Inegbedion, ‘Presidential term limits and their impact on constitutionalism in Africa’, in Charles M Fombad and Christina Murray (eds.), *Fostering constitutionalism in Africa* (PULP 2010)15-18.

alternation of power reduces the risk of accumulation and personalisation of power – a state of affairs that often leads to authoritarian rule.

Secondly, presidential term limits have the capacity to protect democracy and democratic institutions by reducing the advantages that an incumbent possesses in democratic elections and the risks of individual personal rule. This is because incumbents have greater access to state resources than non-incumbents, enjoy the support of the media and interest groups, control key democracy-enhancing institutions such as the election management body and the courts, and are able to rely on clientelist or patronage networks to ensure their re-election.<sup>21</sup> The longer the incumbent stays in power, the more entrenched these advantages become and the more difficult it is to have a free and fair election fought on a level playing field. It is therefore no surprise, as the tables above show and several other studies confirm, that the rate of incumbent re-election in Africa is very high. In other words, the longest serving presidents in Africa, based both on incumbency advantages, particularly the manner in which they have used this to manipulate the presidential term limits provisions are almost guaranteed re-election every time (See Table 3). A large body of scholarly evidence not only underscores the impact of incumbency advantage, but also indicates that this has been increasing over time.<sup>22</sup>

Thirdly, term limits reduce the barriers of entry into politics, facilitate the process of developing a culture of political competition and tolerance for opponents, and thus enhance the prospects for political development and consolidation. They result in greater numbers of people being attracted into contests for office. Improved competition in the political market also improves the prospects for greater choice and satisfaction. By contrast, the absence of a clear mechanism that can ensure peaceful and orderly alternation of power and give others an opportunity to serve their country may breed frustration and force ambitious politicians, both within the ruling and opposition parties, to resort to violent or corrupt means to achieve their objectives.

Fourthly, presidential term limits provide the most effective and legitimate means to deal with one of the most intractable problems to have inhibited Africa's development and progress: bad leadership. On the one hand, term limits provide enough time for exceptional leaders to make their mark and create a solid foundation on which others can build; on the other, they guarantee the replacement of a bad leader. The sustainability of constitutional governance and democracy will thus depend not on the chance that a good leader is elected to office but rather the existence of an effective and entrenched constitutional mechanism for changing a leader.

Finally, presidential term limits are important for African countries given the continent's weak and fragile constitutional and democratic roots. In particular, the absence of a long culture, history and tradition of competitive politics has been aggravated by a history of conferring extensive powers on presidents or allowing them to arrogate such powers to themselves and use these to weaken key institutions that provide checks and balances, such as the judiciary and legislature, in order to perpetuate their rule. A government's introduction of presidential term limits provides a strong indication of its commitment to promoting democracy, good governance and respect for the rule of law by increasing the likelihood of alternation in power. Gracefully accepting defeat and giving up power, or giving up power at the end of a specified term,

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<sup>21</sup> Acting out of self-interest, such networks of clientelist and patronage partnerships facilitated the growth of African dynasties.

<sup>22</sup> For discussion of undue incumbent advantage, see Alexander Tabarrok, 'A survey, critique, and new defense of term limits', (1994) 14(2) *Cato Journal* 333-350. Rosalind Dixon and David Landau, (note 11) 365-369. See also Daniel Vencovsky, 'Presidential term limits in Africa', (2007) *Conflict Trends* 15-21.

instils confidence amongst political actors that the rules of the game are respected by everyone and provides a solid foundation for making democracy the only game in town.

#### **4.2 Arguments against presidential term limits**

Opponents of presidential term limits, including the many African presidents who have removed these limits from their constitutions, have raised various counterarguments.

One of the main objections to presidential term limits is that they undermine democracy by depriving the country of the benefit of experienced persons and voters of the opportunity to re-elect preferred leaders. Popular elections and referenda, it is argued, are better than term limits because they are an ideal means by which to choose leaders or replace incompetent leaders.<sup>23</sup>

The reality, however, is that the quality of most African elections and referenda is poor. In most cases, especially when they concern presidents or the removal of presidential term limits, they are organised by powerful entrenched incumbents who manipulate the process to ensure that the outcome favours them. This is particularly so where the presidential term-limit provision is weakly entrenched and, as such, can easily be amended. For example, in several cases, presidential term limits have been removed or amended using procedures similar to those used in replacing or adopting ordinary legislation.<sup>24</sup>

Secondly, it is argued that frequent changes of leaders can have a negative impact on the quality and continuity of a country's policies and bring about political instability. However, there is no empirical evidence to support such an argument because a leadership change after four or five years is almost a universal norm and has hardly threatened the stability of any country.

Thirdly, some have argued that presidential term limits unduly limit the human and political rights of incumbents and voters. But a review of international treaties and some national constitutions shows that re-election is not conceived as a human right and that presidential term limits provisions do not limit voters' rights – if they do, it is a self-imposed legitimate limitation.<sup>25</sup>

Fourthly, some apologists for open terms point to the fact that Africa borrowed its constitutional systems from the major Western constitutional systems, most of which – with the major exception of France, the United States and a few others – do not have any term limits.<sup>26</sup> According to this school of thought, term limits are therefore an imposition and a display of double standards by the West and foreign donors.

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<sup>23</sup> See Fredline M Cormack-Hale and Mavis Zupork Dome, 'Support for elections weakens among Africans: Many see them as ineffective in holding leaders accountable', Afrobarometer Dispatch No. 425, 9 February 2021, [https://www.afrobarometer.org/wp-content/uploads/migrated/files/publications/Dispatches/ad425-support\\_for\\_elections\\_weakens\\_in\\_africa-afrobarometer\\_dispatch-7feb21.pdf](https://www.afrobarometer.org/wp-content/uploads/migrated/files/publications/Dispatches/ad425-support_for_elections_weakens_in_africa-afrobarometer_dispatch-7feb21.pdf), who in their 2021 report – based on 11 countries surveyed regularly since 2008/2009 – point out that support for the belief that elections enable voters to remove leaders has dropped by 11 percentage points from 56 per cent to 45 per cent.

<sup>24</sup> For example, Cameroon in 2008, Djibouti in 2010, Gabon in 2003, Namibia in 1999 and Togo in 2002. By contrast, President Nkurunziza had to resort to intimidating and manipulating the Constitutional Court to enable him to succeed in his third-term bid because article 96 of the Constitution required amendments to receive at least 80 per cent approval in parliament to be adopted, which he could not manage.

<sup>25</sup> See European Commission for Democracy Through Law (Venice Commission), 'Report on term-limits. Part 1 – Presidents', [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2018\)010-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2018)010-e), 16-21.

<sup>26</sup> Kristin McKie, 'The politics of Institutional Choice Across Sub-Saharan Africa: Presidential Term Limits', (2017) 52(1) *Studies in Comparative International Development* 436-456, points out that there is little evidence to show that the international community and donor pressure influenced the adoption of presidential term limits in post-1990 African constitutions.

This argument is unsatisfactory on several grounds. First, term limits have very strong historical roots that go as far back as Athenian democracy in the fifth century BC and are well grounded in classical liberal models of limited democratic government.<sup>27</sup> Secondly, most Western democracies have a culture of political accountability and tolerance that promotes power-sharing and ensures that leaders who stay in power for a long time are the exception rather than the rule. For example, in the 1990s, pressure within the ruling Conservative Party forced Prime Minister Margaret Thatcher of Britain to resign after she had stayed in power for too long and was increasingly perceived as out of touch and aloof. Thus, even if many Western countries lack explicit or implicit presidential term limits, in practice there are in-built processes to ensure a regular and peaceful alternation of power. In addition, many of these European countries have established parliamentary systems of government, where the incumbent can be removed without reasons by parliament, i.e., in parliamentary systems the absence of term limits on the prime minister is counterbalanced by the absence of guaranteed terms as is the case in presidential terms.

## **5. The nexus between presidential term limit evasion, constitutionalism, democracy and respect for the rule of law**

There is overwhelming evidence – from both the literature as well as survey indicators, such as those on economic performance, the state of civil and political rights, the state of freedom of the press, and the state of respect for the rule of law – that points to a causal link between prolonged stays in power, state fragility, weak institutions, bad governance, corruption, and feeble democratic consolidation.

As Table 4 shows, the ten longest-serving presidents in Africa have been in power for an average of 17.5 years. They are Teodoro Obiang Nguema Mbasogo of Equatorial Guinea (43 years); Paul Biya of Cameroon (40 years); Dennis Sassou Nguesso of Republic of Congo (38 years); Yoweri Museveni of Uganda (36 years); Isaias Afwerki of Eritrea (31 years); Ismail Guelleh of Djibouti (23 years); Paul Kagame of Rwanda (22); Faure Gnassingbe of Togo (17 years); Ali Bongo Odimba of Gabon (13 years); and Alassane Ouattara of Côte d'Ivoire (12 years). It is no surprise that Africa has six of the ten longest-serving leaders in the world.

A number of general observations can be made about the negative impact of these unduly prolonged stays in power and their effects on political alternation, political stability, democracy and constitutionalism.

The first point to note is the strong positive correlation between the existence of presidential term limits provisions and the tendency of presidents to voluntarily leave power as part of a peaceful democratic transition rather than through a military coup, as was the case before the 1990s. By contrast, seven of the longest-serving presidents have prolonged their stay in power and prevented peaceful alternation by either removing the presidential term limits provisions from their constitutions or tampering with them (these are the presidents of Cameroon, Djibouti, Gabon, Equatorial Guinea, Republic of Congo, Rwanda and Uganda). Their prolonged stay in power also shows that without presidential term limits, incumbents are almost always guaranteed to win any re-election contest. As noted earlier, a few incumbents (See Table 4) – such as John Mahama of Ghana in 2016, Goodluck Jonathan of Nigeria in 2015, and Edgar Lungu of Zambia in 2021 – lost their second term re-election bid, and only one, Abdoulaye Wade in 2012, lost his third-term bid. The removal of presidential term limits is therefore paving the way for the pre-1990 presidents-for-life of the past to re-emerge.

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<sup>27</sup> See AHM Jones, *Athenian Democracy* (Johns Hopkins University Press 1986) 105.

Secondly, the removal or manipulation of presidential term limits has facilitated the growth of dynasties, which in turn are promoted by self-serving clientelist and patronage networks determined to protect their interests. The emerging new culture of father-to-son succession began in 2001 when former president Joseph Kabila, with the help of the military, replaced his assassinated father, Laurent Kabila, in the DR Congo.<sup>28</sup> In Togo, the army was instrumental in Faure Gnassingbe's replacing his deceased father, Gnassingbe Eyadema, in 2005 in disregard of the terms of the constitution. Gabon's Ali Bongo took over from his father, Omar Bongo, who had been in power for 42 years, in 2009, and is himself now preparing his own son, Nouredin Bongo Valentin, to take over.

In 2021, the army was again instrumental in replacing the late Chadian president Idriss Déby, in power for 31 years, with his son, General Mahamat Déby, as president. Equatorial Guinea's President Teodoro Obiang Nguema Mbasogo, in power for the last 43 years, appointed his son, Teodoro Nguema Obiang Mangue, whom he has been grooming as successor, as vice president in 2016. Similar dynastic successions are in the making. These include Paul Biya of Cameroon, in power for 40 years, who is planning to hand over to his son, Franck Biya. In Congo-Brazzaville, Denis Christel Sassou Nguesso, son of President Denis Sassou Nguesso, who has been in power for 37 years, is being prepared for succession. In Uganda, General Muhoozi Kainerugaba is being prepared to replace his father, Yoweri Museveni, who has been president for the last 36 years.

Thirdly, respect for the rule of law is undermined when presidents ignore presidential term limits or manipulate them. One of the hallmarks of the rule of law is the ability of the judiciary to decide matters objectively on the basis of the facts and the law and without external influence. In a number of countries, courts were coerced and manipulated by incumbents to contrive technical, sometimes implausible, interpretations of presidential term limits provisions to cover up their unconstitutional behaviour.

Fourthly, in most African countries, the actual or attempted removal of presidential term limits has led to violence, repression and violation of the human rights of citizens protesting against the changes. Micha Wiebusch and Christina Murray, in their 2019 study, give examples of how, in most countries, the manipulation of presidential term limits provisions resulted in various forms of instability, illegality and illegitimacy.<sup>29</sup> For instance, in Cameroon in 2008 and DR Congo in 2015, many innocent people peacefully protesting against the removal of presidential term-limit provisions lost their lives in police and military crackdowns. In Burkina Faso in 2014 and Zimbabwe in 2013, high-handed security-force interventions led to loss of life and damage to property.

The pre-1990 spectacle of military coups as the only means to replace leaders has been revived as a result of incumbents' removal of presidential term-limit provisions and thus of the only means of alternation of power. Post-1990 coups directly provoked by the removal of presidential term limits include the coup against President Mamadou Tandja of Niger in 2010 and Alpha Conde of Guinea in 2021. It was President Blaise Compaore's attempt to change the Constitution of Burkina Faso and prolong his stay in power in 2014 that led to the popular insurrection and coup that toppled his regime. This in turn led to a cycle of violence and political instability from which the country is still suffering today.

Finally, the past decade has been marked by signs of a global democratic recession, with increased evidence of democratic deconsolidation and autocratisation. The situation in Africa, however, is far worse.

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<sup>28</sup> See Issa Sikiti da Silva, 'The Rise of Africa's Political Dynasties', <https://www.newsafrika.net/248>, accessed 3 November 2022.

<sup>29</sup> See Micha Wiebusch and Christina Murray, 'Presidential term limits and the African Union,' (note 9) 144-146.

Governance indicators show that most of the African countries that have removed, distorted or ignored presidential term have not performed well in terms of democratic progress, respect for the rule of law, prospects for constitutionalism and stability and corruption when compared to countries that have retained and respected these provisions.

For example, according to the Ibrahim Index of African Governance, the ten worst-performing countries in Africa between 2010 and 2019 (Republic of Congo, Libya, Chad, Sudan, DR Congo, Central African Republic, Equatorial Guinea, Eritrea, South Sudan and Somalia)<sup>30</sup> have seen very little alternation in political power. Freedom House's *Freedom in the World* survey shows that although the number of countries classified as 'free' and 'partly free' has increased considerably since 1990, the general scores not only show a downward spiral in the quality of freedom in most countries, but also, significantly, reveal that a number of them, such as Cameroon, Equatorial Guinea, Central African Republic, Niger and Zimbabwe, remained stuck in the 'not-free' category throughout the entire period. The same countries do not perform well in the World Justice Project Rule of Law Index, which provides an indication of how countries adhere to the rule of law in practice. The 2020 Index shows that the five top underperforming countries in Africa were Uganda, Zimbabwe, Mauritania, Cameroon and DR Congo.

At a time when democracy is under threat globally, all these indicators point to a consistently deepening autocratisation in those countries where the manipulation of presidential term-limit provisions has either closed or limited avenues for genuine democracy and political alternation. In view of the negative impact that amending constitutions to remove or distort presidential term limits has had, the question arises whether civil society and the international community have played any role in trying to arrest the situation.

## **6. The role of civil society in promoting respect for presidential term limits**

One of the positive developments of the post-1990 era is that many countries in Africa have seen the growth of a relatively vibrant, vigilant and enlightened civil society. However, only a few liberal constitutions, such as the 2010 Kenyan, 1996 South African and 2013 Zimbabwean constitutions, in article 257, sections 74(5) and (6) and section 238(4), respectively, provide for an elaborate process of public consultation and active involvement of civil society in the constitutional amendment process. This gives civil society organisations the right both to monitor and play an active part in the constitutional amendment process.

By contrast, in most Francophone countries, civil society is not usually actively involved, and in general, as pointed out earlier, constitutional amendments can be made by following the process for adopting ordinary legislation, one in which the public is hardly involved. For example, the amendment to the presidential term-limit provision in the Cameroon Constitution was introduced on the eve of the last day of the parliamentary session, with ordinary citizens and civil society becoming aware of what had happened only after the law had been adopted.

In the four countries where attempts by incumbents to amend the constitution were successfully repelled – Burkina Faso (2014), Malawi (2002), Nigeria (2006) and Zambia (2001) – this was due largely to the strong resistance by civil society made up of lawyers, religious bodies, traditional leaders, political parties and the media, who were able to mobilise the population. In cases where protests failed, this was usually

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<sup>30</sup> Charles M Fombad, 'The state of governance in Africa', in Charles M Fombad, Assefa Fiseha and Nico Steytler (eds), *Contemporary governance challenges in the Horn of Africa*, (Routledge 2022) 13-56.

because the population was caught unaware and incumbents were able to use the full repressive machinery of the state to crush the protesters, often at great cost to life and property.

Unlike the pre-1990 situation, there is evidence in many countries of an increasingly alert civil society committed to democratic ethics, good governance and respect for the rule of law. What is impressive is that in those countries where the constitutional amendments failed, most political parties, including members of ruling parties, were able to put aside their political differences and present a united front of opposition even in the face of well-orchestrated campaigns organised by incumbents and involving bribes (as in Nigeria in 2006) as well as intimidation, blackmail and violence (as in Burkina Faso in 2014 and Guinea in 2020).

What emerges from the cases where civil society successfully repelled the evasion of presidential term limits is that a resolute citizenry which is able to unite, mobilise, and articulate and protect its interests, and enable the formation of a coalition of democrats, including collaboration with members of ruling parties, to defeat attempts to override term limits. On the other hand, protests against manipulation of constitutions to prolong presidential terms have been less successful in Francophone countries such as Cameroon, Gabon and the Republic of Congo due to the weakness of civil society and restrictions on the media. Nevertheless, more could have been achieved if the international community had been prepared to act decisively against recalcitrant incumbent leaders with little regard for constitutional restraints.

## **7. The role of the AU, RECs and international community in promoting respect for presidential term limits**

Presidential term limits may well be primarily a matter of domestic constitutional policy and concern, but they also have implications for international peace and security. Nothing better demonstrates the causal link between prolonged stays in power, term extensions, the conflicts this can provoke, and threats to international peace and security than the crisis arising from Nkurunziza's decision to ignore the term limits in the Burundian constitution in 2015. This resulted in numerous deaths and hundreds of thousands of refugees fleeing to neighbouring countries.

This section briefly highlights measures taken since 1990 by the AU, RECs and the international community at large to curb presidential term-limit evasion and the challenges that limited the effectiveness of these measures.

### ***7.1 The AU and RECs***

Since the AU replaced the Organisation of African Unity (OAU) in 2002, it has adopted several instruments designed to promote constitutionalism, good governance and respect for the rule of law. The most important of these instruments prohibiting unconstitutional changes of government, the African Charter on Democracy, Elections and Governance (the African Democracy Charter), defines such changes, in article 23(5), to include 'any amendment or revision of the constitution or legal instruments, which is an infringement on the principles of democratic change of government'.

Breach of this provision is supposed to lead to sanctions. For example, the AU did bring enormous pressure to bear on Nkurunziza in 2015, but this did not alter the situation. Burundi, like a good number of other African countries, has not ratified the African Democracy Charter; nor have most of those who have ratified the Charter, domesticated it. The reality, as Table 3 shows, is that, the AU is still home to

many aging autocrats or reluctant ‘democrats’ who either do not have term limits in their constitutions or have removed them. Generally, many studies have shown that the AU’s record in compelling states to respect their commitments under its various constitutionalism-building instruments has been inconsistent, erratic and unpredictable. Beyond setting laudable normative standards, there is a lack of a firm commitment as well as capacity and leverage to enforcing democratic principles within the AU.

The lack of a firm commitment to democratic principles within the AU is reflected in the decision to amend the Protocol on the Statute of the African Court of Justice and Human Rights in order to grant blanket immunity for ‘serving heads of state’ and ‘senior government officials’ while they are in office from prosecution for crimes against humanity and genocide.<sup>31</sup> The potential implications of this are frightening. It means the AU would protect any African president who commits these international crimes not only from its own AU courts but also from the International Criminal Court (having decided that African countries should boycott it), provided that they stay in power and regardless of how they do so, including through manipulation of term limits.

In the final analysis, the AU has neither the means nor the will and credibility to restrain African leaders from seeking to prolong their stay in power. Whilst the organisation has, until recently, worked hard to disincentivise coups and other forms of unconstitutional changes of government, it has not done enough to eradicate their root causes through preventive measures. This has been aggravated by two serious normative flaws: first, the legal uncertainty over the meaning and scope of the concept of undemocratic changes of government; and secondly, the absence of an effective monitoring mechanism to ensure the full implementation of the African Democracy Charter and other instruments designed to promote constitutionalism, good governance and respect for the rule of law.

The mandate and practice of the African Peer Review Mechanism (APRM), a mutually agreed instrument voluntarily acceded to by AU member states, provides it with a basis for monitoring constitutional amendment processes. However, the fact that not all member states are parties to it – and that even those that are parties to it have not fully implemented its recommendations – limits its effectiveness. Moreover, although the African Democracy Charter requires member states to submit reports to the African Union Commission (particularly to the African Governance Architecture), this has effectively been absent, with Togo the only country to have submitted a report so far.

The African Commission on Human and Peoples’ Rights (the African Commission) and the African Court on Human and Peoples’ Rights (the African Court) provide opportunities for dealing with abuses of constitutional amendment processes based on the African Charter on Human and Peoples’ Rights in general but more specifically the African Democracy Charter. Some of the disputes brought before these bodies either have been linked, directly or indirectly, to controversial tampering with presidential term limits, or have related more generally to non-compliance with prescribed processes for amending constitutions. For example, the African Commission sent a fact-finding mission to Burundi in 2015.<sup>32</sup>

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<sup>31</sup> See ‘Leaders agree on immunity for themselves during expansion of the African Court’, <http://theglobalobservatory.org/2014/07/leaders-agree-immunity-expansion-african-court/>. At the 23rd Ordinary Summit of the AU, held on 26-27 June 2014 in Malabo, Equatorial Guinea, African leaders formalised an expansion of the African Court’s jurisdiction to include international crimes and, amongst other things, proclaimed their return to the internationally abandoned principle of immunity for serving heads of state or government and other senior officials from prosecution for the same crimes.

<sup>32</sup> See ‘Report of the delegation of the African Commission on Human and Peoples’ Rights on its fact-finding mission to Burundi, 7-13 December 2015’, <https://www.achpr.org/news/viewdetail?id=198>.



Article 34 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights allows member states, on ratifying the Protocol, to sign a declaration under article 5(3). This declaration gives individuals and NGOs with observer status before the African Commission the right to institute cases directly before it in accordance with article 34(6) of the Protocol. Until recently, 12 countries had signed this declaration but four have since withdrawn.<sup>33</sup>

The effect of signing the declaration is that the review of compliance of constitutional amendments with the requirements laid down in the constitution may be performed at the supranational level by the African Court and the African Commission. A number of cases or complaints raising some of these issues have come before Africa's judicial or quasi-judicial supranational jurisdictions. For example, the African Commission has ruled on constitutional amendments to presidential eligibility rules<sup>34</sup> and the outlawing of political parties and removal of judicial remedies.<sup>35</sup> The African Court has also dealt with several cases on unconstitutional constitutional amendments.<sup>36</sup> Although recommendations, declarations and decisions by the African Court and African Commission that constitutional amendments are unconstitutional do not necessarily affect the validity of the amendments in the domestic sphere, they bring peer pressure to bear against abusive constitutional changes through the negative international publicity which is generated.

As for the RECs, some have adopted their own normative frameworks to promote constitutionalism, democracy and respect for the rule of law. For example, in 2001 ECOWAS adopted the Protocol on Democracy and Good Governance. In regard to presidential term limits, ECOWAS has attempted on two occasions to impose a two-term limit for all presidents in the region. The first attempt in 2015, was blocked by The Gambia and Togo. Another attempt in 2021 to re-introduce a two-term limit was opposed by Cote d'Ivoire, Senegal and Togo, all of whose leaders are yet to hand over power in line with the presidential two-term limits in their constitutions.

## ***7.2 The international community***

While the AU and RECs have been relatively timid in their reaction to violations of term limits on the continent, it may be argued that – with the exception of Robert Mugabe of Zimbabwe, who came under sustained international pressure for the Machiavellian tactics he used to prolong his stay in power – the West has been complicit in the prolonged stay in power of several African leaders. For example, in spite of the ruthless methods used by leaders such as Kagame of Rwanda and Museveni of Uganda to prolong their stay in power, they have been subject at most only to mild criticism, other than which they continue to receive financial support from the West.

Indeed, the global post-1990 trend in which Western governments, international institutions and donor agencies supported democracy-building initiatives on the continent has waned. First, Western post-9-11 security imperatives led to increased support for certain repressive regimes, such as those of Museveni in Uganda, Paul Biya in Cameroon and the late Idriss Deby of Chad, which are threatened by elements of

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<sup>33</sup> The eight countries that have signed are Burkina Faso, Malawi, Mali, Ghana, Tunisia, the Gambia, Niger and Guinea-Bissau. The four that have withdrawn are Benin, Côte d'Ivoire, Tanzania and Rwanda. See further the official website of the African Court at <https://www.african-court.org/wpafc/declarations/>.

<sup>34</sup> See *Legal Resources Foundation v Zambia* ACHPR 211/98, 7 May 2001 and *Mouvement Ivoirien des Droits Humains (MIDH) v Côte d'Ivoire* Communication No. 246/02 ACHPR 88, 29 July 2008.

<sup>35</sup> See *Lawyers for Human Rights v Swaziland* ACHPR 251/02, 11 May 2005.

<sup>36</sup> See, for example, *XYZ v Republic of Benin*, Application No. 010/2020, Judgment of 27 November 2020; and *Houngue Eric Noudenhouenoa v Republic of Benin*, Application No. 003/2020, Judgment of 4 December 2020.

global terrorism. The so-called war on Islamic fundamentalist groups has often been used as a pretext for reducing the space for free speech through harsh suppression of all internal opposition.

Secondly, the emergence of China and other non-traditional trading partners, such as India, Brazil and Russia, as alternative sources of foreign diplomatic support and direct investment threaten to further undermine Africa's fragile transition to democracy. Unlike the West, Africa's new trading partners, with China taking the lead, ask no questions and have no qualms in supporting Africa's growing list of sit-tight presidents. As a result of the increasing threat that China poses, many Western countries are in turn starting to adopt a more tolerant attitude towards the revival of authoritarianism, which is implicit in African countries' disregard of presidential term limits.

## **8. Conclusion and recommendations**

### ***8.1 Conclusion***

The literature generally shows that arguments in favour of incorporating presidential term limits in all African constitutions have won the day, both in scholarly debates and in practice. Indeed, even some presidents and countries that have at some point removed them have reinstated them. The question is no longer whether or not they are needed but how best to promote their incorporation in all present-day constitutions and ensure strict respect for them. Even where presidents are popular, there is no evidence to suggest that voters want them forever. Even if they did, the laws of nature cannot be ignored. Alternation is inevitable, and it is better that it be accomplished by voters rather than by incumbents through father-to-son successions or patronage networks that perpetuate their self-interest. If we look at the record from 1990 to date, a number of conclusions can be drawn.

Firstly, presidential term-limit provisions have been successfully removed, manipulated or ignored in autocratic states such as Cameroon, Burundi, Djibouti, Eritrea, Equatorial Guinea, Gabon, Republic of Congo, South Sudan, Sudan and Uganda, all of which have experienced personalised rule for prolonged periods. These are also countries with the poorest records of governance, constitutionalism, respect for the rule of law and respect for human rights on the continent.

Secondly, since 1990, coups d'état have been replaced by skilful manipulation of constitutions and other formal democracy-enhancing institutions, such as courts and election management bodies: this is now the most important means of coming to power and staying there. Whilst the number of coups has decreased considerably – despite their recent resurgence – and more presidents than ever retire gracefully in accordance with constitutional term limits, the use of other illegal extraconstitutional means, such as violent repression, has become an increasingly common method of surreptitiously reviving the legacy of presidencies-for-life under the cloak of supposedly democratic elections.

Thirdly, with the exception, of President Abdoulaye Wade of Senegal in 2012, all presidents who exploited legal ambiguities or constitutional loopholes to 'legalise' their third (or more) terms eligibility through the courts, or simply removed the presidential term limits, went on to win re-election. As such, the argument that elections are the best way of limiting presidential terms is not borne out by the evidence to have emerged in Africa since 1990. On the contrary, the evidence points to the fact that, barring the few instances where incumbents have lost in their bid for a second term, most other incumbents organise

elections to win. In short, the longer African leaders stay in power, the harder it is to remove them in a democratic manner.

Fourthly, a close examination of when presidential term limits provisions have been tampered with shows that this is usually done just before incumbents are due to retire. The evidence shows that Francophone African presidents are more prone than others to abrogating or otherwise tampering with constitutional term limits. For example, there is already suspicion that President Macky Sall, who defeated President Wade in 2012, may use the 2012 amendment to the Senegalese Constitution to re-set the clock and run for a third term. It is the ease with which constitutions can be amended in Francophone Africa that has made it possible for most of the leaders to prolong their stay in power. It is also worth adding that the continuous interference of the former colonial power, France, in protecting leaders who serve its interest has facilitated this policy. For example, the former Chadian president Idris Deby made the startling revelation that in 2002 France forced him to amend the constitution in order to run for an additional presidential term.<sup>37</sup>

Fifthly, due to the increasing indifference or inability of not only the AU and RECs but also the international community, the cost of circumventing or otherwise manipulating constitutions is very low. Whilst coup leaders are sanctioned, no president so far has been sanctioned for violating the constitution to prolong his stay in power, yet both types of action lead to an unconstitutional change of government or, strictly speaking in the latter case, to an unconstitutional retention of power.

Sixthly, it is now clear that presidential term-limit evasion is a manifestation of a historical continuity – the president-for-life syndrome of the pre-1990 era. It is a sign of the resilience and creativity of African leaders who have quickly adapted themselves to the changing environment by adopting some of the formal and informal features of constitutionalism and democracy to disguise their repressive authoritarian systems.

The question is: How can presidential term-limit provisions be made more effective and the cost of circumventing them made as high as the cost for carrying out a coup?

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<sup>37</sup>*La France Est Intervenue Pour Changer La Constitution* (2017) <https://www.youtube.com/watch?v=NczOkkR71IQ>; Ésaïe Toïngar, *Idriss Deby and the Darfur Conflict* (McFarland 2014) 150–151.

## **8.2 Recommendations**

The evidence of the past three decades shows that presidential term-limit provisions in modern African constitutions are necessary not only to revive and sustain the faltering transition towards a culture of constitutionalism, democracy and respect for the rule of law but also to arrest the worrying signs of democratic back-sliding, which comes with the risk of political instability, worsening poverty and other ills. A number of measures need to be taken by key stakeholders at national, regional and international level.

### **8.2.1 At national level**

Certain measures should be adopted at the level of government and by civil society.

#### **All African governments should:**

- constitutionally entrench a strict presidential two-term limit (with a maximum of six years for each term) in their constitutions. This must be formulated in clear and unambiguous language.
- ensure that any proposal to amend this important provision goes through an inclusive, transparent and participatory process that involves thorough public scrutiny and debate and an elaborate process of consultation with all key stakeholders. To enhance its legitimacy, it should be tabled before parliament, where it will need to be approved by at least 75 per cent of its members and subsequently a referendum in which a significant majority (say at least 80 per cent) of registered voters turn out to vote and the proposal is approved with a significant majority (say at least 65 per cent). Courts must be given the powers to review both the process and the substance of the amendment to ensure that it complies with the constitution. While a combination of these requirements does not currently exist – although some constitutions prohibit amendment of term limits, the proposed elaborate procedure is critical to limit the destabilising potential of term limit evasion.
- to avoid the use of ostensibly new constitutions to bypass (unamendable) presidential term provisions, constitution makers should specifically exclude even new constitutions from tampering with term limits, unless this is done in strict conformity with the elaborate amendment procedure outlined above.
- constitutionally entrench a principle that no amendments to presidential term limits should directly or indirectly benefit the incumbent.
- establish an independent permanent constitutional review commission in which representatives of the executive and legislative branch do not constitute more than 49 per cent of its composition. Its mandate should be to regularly review to operation of the constitution and all democracy-enhancing institutions and make recommendations for change.
- constitutionally entrench key democracy-enhancing institutions such as election management bodies, a public service commission, constituency demarcation bodies, and courts, with adequate measures put in place to ensure that they cannot be manipulated either via appointments or their emoluments by the executive or legislature.

### **Civil society organisations should:**

- establish an inclusive constitution-monitoring committee that regularly reviews the level of compliance with constitutional obligations and make recommendations to both parliament and the permanent constitutional review commission. Where necessary, civil society organisation must be prepared to take legal action where there are any threats to the violation of the constitution.
- familiarise and promote constitutional literacy. A vibrant and enlightened civil society is crucial to defending the constitution and constitutionalism.
- seek the formation of a coalition of democrats from all political forces, including ruling parties, to promote a tradition of alternation of power, and broadly constitutionalism and political cooperation and deliberation.

### **8.2.2 At the regional level**

The AU and RECs should be more proactive and take firm action in response to any threats of unconstitutional changes of government through unconstitutional retention of power in violation of their numerous normative instruments as well as national constitutions.<sup>38</sup>

### **In particular, the AU should:**

- raise the cost of term-limit evasion by adopting a firm, consistent, zero-tolerance stance towards all forms of unconstitutional change of government, including those that involve removing presidential term limits for the benefit of incumbent presidents, in line with articles 10(2) and 23(5) of the African Charter. It should strictly sanction all violations of this as provided for under articles 24-26 of the African Charter and article 7(1)(g) of the Protocol on the Establishment of the PSC of the AU (2002).
- develop benchmarks and other guidelines for the implementation of the commitments and principles of the African Democracy Charter, as provided for in article 44(2)(A)(a), including notably guidelines on democratic constitutional amendments in Africa. These benchmarks and guidelines should make it completely clear that unconstitutional changes of government include constitutional amendments that illegally prolong the tenure of incumbents as well as the tampering with elections.
- establish, in line with articles 18-22, an independent monitoring commission, such as an AU Democracy Monitoring and Enforcement Commission, to monitor and evaluate compliance by state parties with their obligations under normative instruments that aim to promote democracy

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<sup>38</sup> Specific reference is made to the following binding instruments: the Constitutive Act of the AU (2000); the Protocol on the Establishment of the PSC of the AU (2002); the African Charter on Human and Peoples' Rights (1981); and the African Charter on Democracy, Elections and Governance (2007); and the following non-binding instruments: the Algiers Declaration (1999); the Lomé Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government (2000); the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) Solemn Declaration (2000); the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance (2002); the Declaration on the Principles and Guidelines on Democratic Elections in Africa (2002); the African Peer Review Mechanism (APRM) (2003); AU (2010), Decision on the Prevention of Unconstitutional Changes of Government and Strengthening the Capacity of the African Union; the 50th Anniversary Solemn Declaration of 2013; Agenda 2063 -The Africa We Want of 2014; the Outcome of Accra Forum (2022); and the Declaration of Malabo (2022).

and constitutionalism and prevent abusive changes to constitutions to prolong the tenure of incumbents. This function could also be played by an expanded African Governance Architecture.

- in line with the letter and spirit of its normative instruments, impose and consistently enforce a presidential two-term limit.
- in line with article 45 of the African Democracy Charter and through the AU Commission, collaborate with the African Court in the implementation of the African Charter. The AU should also encourage member states to make the declaration, based on article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, which empowers ordinary citizens and NGOs to approach the African Court to sanction any irregular constitutional amendments by a member state.
- enhance the effectiveness of the normative framework for promoting and protecting constitutionalism, democracy and the rule of law in Africa by redefining its relationship with RECs and basing it on cooperation and collaboration rather than subsidiarity.
- increase the attractions of post-presidential tenure by establishing an advisory body of retired presidents who respected the prescribed constitutional term limits. This prestigious body should meet at least once a year to discuss and advise on contemporary issues affecting the continent, including discussions on post-presidency privileges.
- amending the Protocol on the Statute of the African Court of Justice and Human Rights in order to remove the blanket immunity given to 'serving heads of state' and 'senior government officials' while they are in office from prosecution for crimes against humanity and genocide.

### **Action that needs to be taken by RECs**

RECs can enhance the entrenchment and enforcement of presidential term limits by

- emulating the attempts by ECOWAS to make two-term presidential term limits mandatory in their regions; and
- in accordance with the principle complementarity between the AU and the RECs provided for in article 44(2)(B)(b) of the African Democracy Charter, adopt instruments giving effect to the provisions of the Charter, similar to the ECOWAS Democracy Protocol, and develop a mechanism to monitor and evaluate the implementation of the commitments and principles enshrined in the Charter, particularly any benchmarks and guidelines which the AU may develop.

### **8.2.3 At the international level**

In recognition of the risk that prolonged tenure poses to constitutionalism, democracy and political stability on the continent, the international diplomatic and donor community should take a variety of measures to enhance the adoption and enforcement of presidential term limits. These include the following:

- using peer pressure to discourage presidents from evading presidential term limits and encouraging those who have removed them to reinstate them. This could take the form of proactive engagements, alongside with the AU and relevant REC, to secure public commitment of presidents

who have started to serve their second terms, long before any rumours of term limit evasion emerge;

- increasing the cost of violating constitutional term limits by immediately condemning such behaviour and imposing targeted economic sanctions against all persons who were directly or indirectly involved in facilitating or participating in such violations;
- based on the example of the Mo Ibrahim Foundation, create a body that formally recognises and honours (including the possibility of awarding prizes), incumbents who retire in compliance with the constitutionally prescribed two- term limit;
- taking every opportunity to initiate prosecution for crimes against humanity and genocide against any president and other senior officials who committed such crimes in the process of prolonging their stay in power or who used such term-prolongation to escape liability for these crimes.

### **8.3 Final conclusion**

The measures proposed above are no guarantee that presidential term limits would not be tampered with, but they could considerably reduce the risk of this happening. They offer the best prospects of curbing the risk of personalised power and the propensity for perpetual rule – and thereby supporting the continent’s progress in entrenching constitutionalism, democracy and respect for the rule of law, which are preconditions for political stability, equitable economic growth, and sustainable development.

## Annex 1. Current Constitutional Term Limits Provisions in African constitutions

### Algeria

Constitution of 1996, as last amended in 2020

#### Article 92

The presidential term shall be **five (5) years**. No one may serve more than **two consecutive or discontinuous terms**. In the event a presidential term is interrupted because of resignation or any other reason, the term is considered complete.

### Angola

Constitution of 2010

#### Article 113 (Term of office)

1. The term of office of the President of the Republic shall last for **five years**, beginning with their inauguration and ending with the inauguration of the new President elect.
2. Each citizen may serve up to **two terms of office** as President of the Republic.

### Benin

Constitution of the Republic of Benin, 1990 as last amended in November 2019

#### Article 42

The President of the Republic is elected by direct universal suffrage for a mandate of five years, renewable one sole time. In no case, may one, in their life, exercise more than two mandates of President of the Republic.

#### Article 44

No one can be a candidate to the function of the President of the Republic or Vice President of the Republic if:

...

- [they] are not at least already 40 years old and at most already **70 years old** at the date of entering into [their] function;
- [they were] elected **two (02) times** as President of the Republic and exercised two mandates as such;

### Botswana

Constitution of 1966 as amended in 2016

#### 34. Tenure of office of President

1. The President shall, subject to the provisions of this section, hold office for **an aggregate period not exceeding 10 years** beginning from the date of his or her first assumption of office of President after the commencement of this Act.

...

3. The President shall cease to hold office of President at the expiry of the period prescribed under subsection (1) of this section, or when the person elected at the next election of President following a dissolution of Parliament assumes office.

### Burkina Faso

Draft of the Constitution of the Fifth Republic of Burkina of 2017

Art. 59

The President of Faso is elected for a **five-year term**.

He is eligible for **re-election only once**.

In no case may anyone exercise more than two mandates as President of Faso, neither consecutively nor intermittently.

#### Art. 192

No draft or proposal for the revision of the Constitution is admissible when it calls into question:

... the number and length of presidential terms.

### Burundi

Constitution of 2018

#### Article 97

The President of the Republic is elected by direct universal suffrage for a **renewable term of seven years**.

No one can hold more than **two consecutive terms**.



## Cameroon

Constitution of 1996 as amended in 2008

### Article 6.

...

(2) (new) The President of the Republic shall be elected for **a term of office of 7 (seven) years**. He shall be **eligible for re-election**.

## Cabo Verde

Constitution of 1992 as amended in 2010

### Article 126 (Mandate)

1. The President of the Republic shall be elected for **a period of five years**, which shall commence on the date of his or her assumption of office and terminate with the assumption of office of the new President-elect.

...

### Article 134 (Non re-eligibility)

1. The President of the Republic may **not stand for a third term in the five years** immediately following the end of his or her second consecutive term.

....

## Central African Republic (CAR)

Constitution of 2016

### Article 35

...

The duration of the mandate of the President of the Republic is of **five (5) years**. The mandate is **renewable one sole time**.

In no case, may the President of the Republic exercise more than **two (02) consecutive mandates or extend it for whatever motive that may be**.

## Chad

Constitution of 2018

### Article 66

The President is elected by universal direct suffrage for **a term of six (6) years, renewable once**.

## Comoros

Constitution of 2018

### Article 52.

Each Island, through the elected candidate, carries out the presidency of the Union for a **mandate of five (5) years, renewable once**. In no case may an Island exercise more than **two (2) consecutive mandates**. The President of the Union is elected by universal direct majority suffrage in two rounds.

## Congo (Brazzaville)

Constitution of 2015

### Article 65

The President of the Republic is elected for **a mandate of five (5) years renewable two (2) times**.

The President of the Republic remains in [his] function until the end of his mandate which, excluding [a] case of force majeure recognized and declared by the Constitutional Court, must coincide with the effective taking of [his] function of his elected successor.

## Côte d'Ivoire

Constitution of 2016 as amended in 2020

### Article 55

The President of the Republic is elected for **five years** by direct universal suffrage.

He may be re-elected only once. ...

## Democratic Republic of the Congo

Constitution of 2005 as amended in 2011

### Article 70

The President of the Republic is elected by direct universal suffrage for a mandate of **five years renewable a single time**. At the end of his mandate, the President of the Republic remains in [his] functions until the effective installation of the newly elected President.

## Djibouti

Constitution of September 1992 as amended in 2010

### Article 23[6]

Any candidate for the office of President of the Republic shall be (...) be at least forty years of age and **at most seventy five years** on the date of the official declaration of his candidacy.

### Article 24

The President of the Republic shall be elected for **five years** by direct universal suffrage and majority vote in two rounds. He shall be **eligible for re-election** in the conditions provided for in Article 23.

## Egypt

Constitution of 2014 as amended in 2019

### Article 140:

The president shall be elected for **a period of six calendar years**, commencing from the day following the termination of the term of his predecessor. The president may not hold office for more than **two consecutive terms**. ...

## Equatorial Guinea

Constitution of 1991 as amended in 2012

### Article 36

1. The President of the Republic is elected for **a term of seven years** renewable with the possibility of being re-elected.
2. The mandate of the President of the Republic is **limited to two consecutive periods**, not being able to present himself for a third mandate until alternation is produced. ...

## Eritrea

Constitution of 1997 (effectively suspended)

### Article 41 Election and Term of Office of the President

....

2. The term of office of the President shall be **five years**, equal to the term of office of the National Assembly that elects him.
3. No person shall be elected to hold the office of President for more than **two terms**.
4. When the office of the President becomes vacant due to death or resignation of the incumbent or due to the reasons enumerated in Sub-Article 6 of this Article, the Chairperson of the National Assembly shall assume the office of the President. The Chairperson shall serve as acting President for not more than thirty days, pending the election of another President to serve the remaining term of his predecessor.
5. The term of office of the person elected to serve as President under Sub-Article 4 of this Article shall not be considered as a full term for purposes of Sub-Article 3 of this Article.

...

## Eswatini

Constitution of 2005

*A “constitutional” monarchy with no term limit provision*

## Ethiopia

Constitution of 1995

**Article 70 Nomination and Appointment of the President** (*who is a nominal head of state in a parliamentary system*)

...

4. The term of office of the President shall be **six years**. No person shall be elected President for more than **two terms**.<sup>39</sup>

...

### Gabon

Constitution of 1991 as amended in 2011 and as consolidated to Decision No. 219/CC of 14 November 2018

**Article 9 [Amended by Law No. 1/94 of 18 March 1994; 1/97 of 22 April 1997; 13/2003 of 19 August 2003; 001/2018 of 12 January 2018]**

The President of the Republic is elected **for seven (7) years** by direct universal suffrage. He is **re-eligible**. (...)

### The Gambia

Constitution of 1996 as amended in 2018<sup>40</sup>

#### **Article 63. Tenure of office of President**

(1) The term of office of an elected President shall, subject to subsection (3) and (6), be for a term of **five years**; and the person elected President shall before assuming office take the prescribed oaths.

...

(6) Where the life of the National Assembly is extended for any period in accordance with section 99(2), the term of office of the President shall be extended for the same period.

### Ghana

Constitution of 1992 as amended in 1996

#### **Article 66.**

(1) A person elected as President shall, subject to clause (3) of this article, hold office for **a term of four years** beginning from the date on which he is sworn in as President.

(2) A person shall not be elected to hold office as President of Ghana for more than **two terms**.

...

### Guinea-Bissau

Constitution of 1984 as amended in 1996

#### **Article 66**

1. The term for the President of the Republic is **five years**.

2. The President of the Republic **may not run for a third consecutive mandate, nor during the five years following his second mandate**.

3. If the President of the Republic resigns from office, he may not run in the next election, nor in those taking place within five years of his resignation.

### Guinea (Conakry)

Constitution of 2020

#### **Article 40**

The President of the Republic is elected by direct suffrage for a **term of six (6) years, renewable once**.

---

<sup>39</sup> There is no term limit on the Prime Minister, who is the head of government.

<sup>40</sup> Note that the Gambia Draft Constitution of 2020 has an elaborate presidential term limit provision, which states as follows:

102. Term of office of President

1. Subject to subsection (3), the President shall hold office for a term of five years.

2. No person shall hold office as President for more than two terms of five years each, whether or not the terms are consecutive.

3. Where the life of the National Assembly is extended for any period in accordance with section 140 (2) and (3), the term of office of the President shall be extended for the same period.

4. Where the term of office of the President is extended in accordance with subsection (3), the Independent Boundaries and Electoral Commission shall appoint a new date for holding election for the office of President within the period specified in section 92 (2).

## Kenya

### Constitution of 2010

#### 136. Election of the President

...

2. An election of the President shall be held

a. on the same day as a general election of Members of Parliament, being the second Tuesday in August, in **every fifth year**; or

b. in the circumstances contemplated in Article 146.

#### 142. Term of office of President

(1) The President shall hold office for a term beginning on the date on which the President was sworn in, and ending when the person next elected President in accordance with Article 136 (2) (a) is sworn in.

(2) A person shall not hold office as President for more than **two terms**.

## Lesotho

### Lesotho's Constitution of 1993 as amended in 2018

Parliamentary monarchy system government – *There is no provision dealing with term limits.*<sup>41</sup>

## Liberia

### Constitution of 1986

#### Article 50

The president shall be elected by universal adult suffrage of registered voters in the Republic and shall hold office for **a term of six years** commencing at noon on the third working Monday in January of the year immediately following the elections. No person shall serve as President for more than **two terms**.

## Libya

Constitutional Charter for the Transitional Stage of 2011<sup>42</sup>, *which serves as an incomplete transitional constitution*

## Madagascar

### Constitution of 2010

#### Article 45

The President of the Republic is the Head of State. He is elected by universal direct suffrage for a mandate of **five years renewable one sole time**. ....

## Malawi

### Constitution of 1994 as amended in 2017

#### 83. Tenure of office

(1) The President shall hold office for **five years** from the date that his or her oath of office is administered, but shall continue in office until his or her successor has been sworn in.

(2) The First Vice-President and the Second Vice-President shall hold office from the date of the administration of the oath of office to them until the end of the President's term of office unless their office should come to an end sooner in accordance with the provisions of this Constitution.

(3) The President, the First Vice-President and the Second Vice-President may serve in their respective capacities **a maximum of two consecutive terms**, but when a person is elected or appointed to fill a vacancy in the office of President or Vice-President, the period between that election or appointment and the next election of a President shall not be regarded as a term.

(4) Whenever there is a vacancy in the office of President, the First Vice-President shall assume that office for the remainder of the term and shall appoint another person to serve as First Vice-President for the remainder of the term.

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<sup>41</sup> There are no term limits on the Prime Minister, who is the head of government.

<sup>42</sup> There is no term limit provision.

## Mali

### Constitution of 1992

#### Article 30

The President of the Republic shall be elected for **five years** by direct universal suffrage, by election on a majority basis from two rounds of ballots. He may only **be elected once**.

## Mauritania

### Constitution of 1991 as amended in 2012

#### Article 26

The President of the Republic is elected for **five years** by universal direct suffrage.

...

Every citizen born Mauritanian enjoying their civil and political rights and at least forty (40) years old, and **at most seventy-five (75) years old**, at the date of the first round of the election [,] is eligible to the Presidency of the Republic.

#### Article 28

The President of the Republic is **re-eligible one sole time**.

## Mauritius<sup>43</sup>

### Constitution of 1968 as amended in 2016

#### 28. The President (*who serves as a largely ceremonial head of state*)

...

2. a. The President shall

- i. be elected by the Assembly on a motion made by the Prime Minister and supported by the votes of a majority of all the members of the Assembly; and
- ii. subject to this section and section 30, hold office for **a term of 5 years and shall be eligible for re-election**.

...

## Morocco

### Constitution of 2011

*There is no term limit provision because the country is a constitutional monarchy<sup>44</sup>*

## Mozambique

### Constitution of 11 June 2004, as amended in 2018

#### Article 146 Eligibility [Previously Art. 147]

...

3. The term of the office of the President of the Republic shall be **five years**.

4. The President of the Republic may be **re-elected only once**.

5. A President of the Republic who has been elected on two consecutive occasions may be a candidate for further presidential elections only five years after the end of his last term of office.

## Namibia

### Constitution of 1990 as amended in 2014

#### Article 29 Term of Office

(1) (a) The President's term of office shall be **five (5) years** unless he or she dies or resigns before the expiry of the said term or is removed from office.

(b) In the event of the dissolution of the National Assembly in the circumstances provided for under Article 57(1) hereof, the President's term of office shall also expire.

...

(3) A person shall hold office as President for not more than **two terms**.

...

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<sup>43</sup> There are no term limits on the Prime Minister, who is head the government.

<sup>44</sup> There is no term limit on the prime minister, who is head of government.

## Niger

### Constitution of 2010 as amended in 2017

#### Article 47

The President of the Republic is elected by universal, free, direct, equal and secret suffrage for a **mandate of five (5) years, renewable one (1) sole time**.

In any case, no one may exercise more than two (2) presidential mandates or extend the mandate for any reason whatsoever.

## Nigeria

### Constitution of 1999

#### 135.

...

(2) Subject to the provisions of subsection (1) of this section, the President shall vacate his office at the expiration of a period of **four years** commencing from the date, when –

(a) in the case of a person first elected as President under this Constitution, he took the Oath of Allegiance and the oath of office; and

(b) in any other case, the person last elected to that office under this Constitution took the Oath of Allegiance and oath of office or would, but for his death, have taken such Oaths.

(3) If the Federation is at war in which the territory of Nigeria is physically involved and the President considers that it is not practicable to hold elections, the National Assembly may by resolution extend the period of four years mentioned in subsection (2) of this section from time to time; but no such extension shall exceed a period of six months at any one time.

#### 137.

A person shall not be qualified for election to the office of President if-

... he has been elected to such office at **any two previous elections**;

## Rwanda

### Constitution of 2003 as amended in 2015

#### Article 101: Term of office of the President of the Republic

The President of the Republic is elected for a **five (5) year term**. He or she **may be re-elected once**

## São Tomé e Príncipe

### Constitution of 1975 as amended in 2003

#### Article 79: Mandate

1. The President of the Republic is elected for **five years**.

...

3. **Re-election for a third consecutive term of office, or during the five-year period immediately following the end of the second consecutive mandate, is not permitted.**

4. If the President of the Republic resigns, he cannot run in the next elections, nor can he run during the five-year period immediately following his resignation.

## Senegal

### Constitution of 2001 as amended in May 2019

#### Article 27 [as amended in 2016]

The duration of the mandate of the President of the Republic is of **five years**. No one may exercise more than **two consecutive mandates**.

#### Article 28 [as amended in 2016]

Any candidate to the Presidency of the Republic must be exclusively of Senegalese nationality, enjoying his civil and political rights, [and] be thirty-five (35) years of age at least and **seventy-five (75) years at most** [on] the day of the ballot. He must know how to write, to read and to fluently speak the official language.

## Seychelles

### Constitution of 1993 as amended in 2017

52. 1. Subject to this article, a person elected as President shall hold office for **a term of five years** – ...
2. A person shall hold office as President under this Constitution for not more than **two terms**.
- ...

## Sierra Leone

### Constitution of 1991, as amended in 2013

#### 46. Tenure of office of President, etc

1. No person shall hold office as President for more than **two terms of five years each whether or not the terms are consecutive**.
- ...

## Somalia

### Constitution of 2012

#### Article 91. Term of Office of the President of the Federal Republic of Somalia

The President of the Federal Republic of Somalia shall hold office for **a term of four (4) years**, starting from the day he takes the oath of the President of the Federal Republic of Somalia, in accordance with Article 96 of the Constitution.

## Somaliland<sup>45</sup>

### Constitution of 2001

#### Article 88: Term of Office

1. The term of office of the President and the Vice-President is **5 years** beginning from the date that they are sworn into office.
2. No person may hold the office of President for more than **two terms**.

## South Africa

### Constitution of 1996 as amended in 2013

#### 88. Term of office of President<sup>46</sup>

- (1) The President's term of office begins on assuming office and ends upon a vacancy occurring or when the person next elected President assumes office.
- (2) No person may hold office as President for more than **two terms**, but when a person is elected to fill a vacancy in the office of President, the period between that election and the next election of a President is not regarded as a term.

## South Sudan

### Constitution of 2011 as amended in 2013

#### Article 100. Tenure of the Office of the President

- (1) The tenure of the office of the President of the Republic of South Sudan shall be **five years**.
- (2) Notwithstanding Article (1) above, **during the transitional/ period** the tenure of the office of the President of the Republic of South Sudan shall be **four years from July 9, 2011**.

## Sudan

### Constitution of 2019 (effectively a post Bashir transitional Charter).

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<sup>45</sup> Note that Somaliland is not recognised as an independent state by the African Union or United Nations.

<sup>46</sup> South Africa effectively has a parliamentary system of government where the president is appointed by and can be removed anytime by parliament. So the president does not enjoy a guaranteed term of five years. In any case, no president can be elected president more than twice.

## Tanzania

### Constitution of 1977 as amended in 2005

#### Article 40. Eligibility for re-election

1. Subject to the other provisions of this Article, any person who holds office as President shall be eligible for re-election to that office.
2. **No person shall be elected more than twice** to hold the office of President.
3. A person who has been President of Zanzibar shall not be disqualified from being elected President of the United Republic for the reason only that he has once held office as President of Zanzibar.
4. Where the Vice-President holds the office of President in accordance with the provisions of Article 37(5) for less than three years, he shall be eligible to contest for the office of President for two terms, but where he occupies the office of President for three years or more, he shall be eligible to contest for the office of President for one term only.

#### Article 42. Time of assumption and term of office of President

...

2. Unless he sooner resigns or dies, the person elected as President, subject to the provisions contained in sub article (3), shall hold the office of President for a period of **five years** from the date on which he was elected President.

...

4. If the United Republic is at war and the President considers that it is not practicable to hold elections, the National Assembly may from time to time, pass a resolution extending the period of five years specified in sub article (2) of this Article save that no such extension shall exceed a period of six months at any one time.

## Togo

### Constitution of 1992, as amended in 2019

#### Article 59

The President of the Republic is elected by universal, free, direct, equal and secret suffrage for **a term of five (05) years renewable only once**. This provision can only be modified by referendum. The President of the Republic remains in office until the effective assumption of office of his elected successor.

## Tunisia

### Constitution of 2022

#### Article 90

The President of the Republic is elected for a **term of five years** during the last three months of the presidential term by universal, free, direct and secret suffrage, by an absolute majority of the votes cast.

Holding the position of the President of the Republic may not exceed **two complete successive or separate terms**.

## Uganda

### Constitution of 1995 as amended in 2017

#### Article 105. Tenure of office of President

1. A person elected President under this Constitution shall, subject to clause (3) of this article, hold office for **a term of five years**.
2. A person shall not hold office as President for more than **two terms**.
  - 2a. A bill for an Act of Parliament seeking **to amend this clause and clause (2)** of this article shall not be taken as passed unless-
    - a. it is supported **at the second and third reading in Parliament by not less than two thirds of all Members of Parliament**; and
    - b. has been referred to a decision of the people and **approved by them in a referendum**

## Zambia

### Constitution of 1991 as amended in 2016

#### Article 106: Tenure of office of President and vacancy

1. The term of office for a President is **five years** which shall run concurrently with the term of Parliament, except that the term of office of President shall expire when the President-elect assumes office in accordance with Article 105.

...



3. A person who has **twice held office** as President is not eligible for election as President.
2. A President shall hold office from the date the President-elect is sworn into office and ending on the date the next President-elect is sworn into office.
3. A person who has twice held office as President is not eligible for election as President.
4. The office of President becomes vacant if the President—
  - a. dies;
  - b. resigns by notice in writing to the Speaker of the National Assembly; or
  - c. otherwise ceases to hold office under Article 81,107 or 108.
5. When a vacancy occurs in the office of President, except under Article 81—
  - a. the Vice-President shall immediately assume the office of President; or
  - b. if the Vice-President is unable for a reason to assume the office of President, the Speaker shall perform the executive functions, except the power to—
    - i. make an appointment; or
    - ii. dissolve the National Assembly;
 and a presidential election shall be held within sixty days after the occurrence of the vacancy.
6. If the Vice-President assumes the office of President, in accordance with clause (5)(a), or a person is elected to the office of President as a result of an election held in accordance with clause 5(b), the Vice-President or the President-elect shall serve for the unexpired term of office and be deemed, for the purposes of clause (3)—
  - a. to have served a full term as President if, at the date on which the President assumed office, at least three years remain before the date of the next general election; or
  - b. not to have served a term of office as President if, at the date on which the President assumed office, less than three years remain before the date of the next general election.

## Zimbabwe

### Constitution of 2013 as amended through 2017

#### Article 91. Qualifications for election as President and Vice-President

....

2. A person is disqualified for election as President or Vice-President if he or she has already held office as President under this Constitution for **two terms, whether continuous or not**, and for the purpose of this subsection three or more years' service is deemed to be a full term.

#### Article 95. Term of office of President and Vice-Presidents

1. The term of office of the President or a Vice-President commences on the day he or she is sworn in and assumes office in terms of section 94(1)(a) or 94(3).
2. The term of office of the President or a Vice-President extends until—
  - a. he or she resigns or is removed from office; or
  - b. following an election, he or she is declared to be re-elected or a new President is declared to be elected; and, except as otherwise provided in this Constitution, their terms of office are **five years** and coterminous with the life of Parliament.

#### Article 328(7)

Notwithstanding any other provision of this section, an amendment to a term limit provision, the effect of which is to extend the length of time that a person may hold or occupy any public office, does not apply in relation to any person who held or occupied that office, or an equivalent office, at any time before the amendment.

## **Annex 2. Bibliography (English and French) on Presidential term limits in Africa (and the world)**

### **Books focused on Term Limits**

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